Message from the President of the United States to Both Houses of Congress November 4, 1812

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES

TO

BOTH HOUSES OF CONGRESS

AT THE

COMMENCEMENT OF THE SECOND SESSION

OF THE

TWELFTH CONGRESS.

NOVEMBER 4, 1812.

Read, and ordered to be printed.

WASHINGTON:

A. & G. WAY, PRINTERS.

.....

1812.

MESSAGE.

Fellow Citizens of the Senate
and of the House of Representatives.

ON our present meeting it is my first duty to invite your attention to the providential favors which our country has experienced, in the unusual degree of health dispensed to its inhabitants, and in the rich abundance with which the earth has rewarded the labors bestowed on it. In the successful cultivation of other branches of industry, and in the progress of general improvement favorable to the national prosperity, there is just occasion, also, for our mutual congratulations and thankfulness.

With these blessings are necessarily mingled the pressures and vicissitudes incident to the state of war, into which the United States have been forced by the perseverance of a foreign power, in its system of injustice and aggression.

Previous to its declaration, it was deemed proper, as a measure of precaution and forecast, that a considerable force should be placed in the Michigan territory, with a general view to its security, and in the event of war, to such operations in the uppermost Canada as would intercept the hostile influence of Great Britain over the savages, obtain the command of the lake on which that part of Canada borders, and maintain co-operating relations with such forces as might be most conveniently employed against other parts. Brigadier General Hull was charged with this provisional service; having under his command a body of troops composed of regulars and of volunteers from the state of Ohio. Having

reached his destination after his knowledge of the war, and possessing discretionary authority to act offensively, he passed into the neighboring territory of the enemy with a prospect of easy and victorious progress The expedition nevertheless terminated unfortunately, not only in a retreat to the town and fort of Detroit, but in the surrender of both, and of the gallant corps commanded by that officer. The causes of this painful reverse will be investigated by a military tribunal

A distinguishing feature in the operations which preceded and followed this adverse event is the use made by the enemy of the merciless savages under their influence. Whilst the benevolent policy of the United States, invariably recommended peace and promoted civilization, among that wretched portion of the human race; and was making exertions to dissuade them from taking either side in the war, the enemy has not scrupled to call to his aid their ruthless ferocity, armed with the horrors of those instruments of carnage and torture, which are known to spare neither age nor sex In this outrage against the laws of honorable war, and against the feelings sacred to humanity, the British commanders cannot resort to a plea of retaliation: for it is committed in the face of our example. They cannot mitigate it, by calling it a self defence against men in arms: for it embraces the most shocking butcheries of defenceless families. Nor can it be pretended that they are not answerable for the atrocities perpetrated; since the savages are employed with a knowledge, and even with menaces, that their fury could not be controlled Such is the spectacle which the deputed authorities of a nation, boasting its religion and morality, have not been restrained from presenting to an enlightened age.

The misfortune at Detroit was not, however, without a consoling effect. It was followed by signal proofs, that the national spirit rises according to the pressure on it. The loss of an important post, and of the brave men surrendered with it, inspired every where new ardor and determination. In the states and districts least remote, it was no sooner known, than every citizen was ready to fly with his arms, at once to protect his brethren against the blood thirsty savages let loose by the enemy on an extensive frontier, and to convert a partial calamity into a source of invigorated efforts. This patriotic zeal, which it was necessary rather to limit than excite, has embodied an ample force from the states of Kentucky and Ohio, and from parts of Pennsylvania and Virginia. It is placed, with the addition of a few regulars, under the command of Brigadier General Harrison, who possesses the entire confidence of his fellow soldiers, among whom are citizens, some of them volunteers in the ranks, not less distinguished by their political stations, than by their personal merits. The greater portion of this force is proceeding on its destination, towards the Michigan territory, having succeeded in relieving an important frontier post, and in several incidental operations against hostile tribes of savages, rendered indispensable by the subserviency into which they had been seduced by the enemy; a seduction the more cruel, as it could not fail to impose a necessity of precautionary severities, against those who yielded to it.

At a recent date, an attack was made on a post of the enemy near Niagara, by a detachment of the regular and other forces, under the command of Major General Van Rensselaer of the militia of the state of New York. The attack, it appears, was ordered in compliance with

the ardor of the troops, who executed it with distinguished gallantry, and were for a time victorious; but not receiving the expected support, they were compelled to yield to reinforcements of British regulars and savages. Our loss has been considerable and is deeply to be lamented. That of the enemy, less ascertained, will be the more felt, as it includes among the killed the commanding general, who was also the Governor of the province; and was sustained by veteran troops, from unexperienced soldiers, who must daily improve in the duties of the field

Our expectation of gaining the command of the lakes, by the invasion of Canada from Detroit, having been disappointed, measures were instantly taken to provide, on them, a naval force superior to that of the enemy. From the talents and activity of the officer charged with this object, every thing that can be done may be expected. Should the present season not admit of complete success, the progress made will ensure for the next a naval ascendancy, where it is essential to our permanent peace with, and control over, the savages

Among the incidents to the measures of the war, I am constrained to advert to the refusal of the Governors of Massachusetts and Connecticut, to furnish the required detachments of militia towards the defence of the maritime frontier. The refusal was founded on a novel and unfortunate exposition of the provisions of the constitution, relating to the militia. The correspondences which will be before you, contain the requisite information on the subject. It is obvious, that if the authority of the United States to call into service and command the militia for the public defence, can be thus frustrated, even in a state of declared war, and of course under apprehensions of invasion preceding war, they are

not one nation for the purpose most of all requiring it; and that the public safety may have no other resource, than in those large and permanent military establishments which are forbidden by the principles of our free government, and against the necessity of which the militia were meant to be a constitutional bulwark.

On the coasts, and on the ocean, the war has been as successful as circumstances inseparable from its early stages could promise Our public ships and private cruisers, by their activity, and, where there was occasion, by their intrepidity, have made the enemy sensible of the difference between a reciprocity of captures, and the long confinement of them to their side. Our trade, with little exception, has safely reached our ports; having been much favored in it by the course pursued by a squadron of our frigates, under the command of Commodore Rodgers. And in the instance, in which skill and bravery were more particularly tried with those of the enemy, the American flag had an auspicious triumph. The frigate Constitution, commanded by Captain Hull, after a close and short engagement, completely disabled and captured a British frigate; gaining for that officer and all on board, a praise which cannot be too liberally bestowed; not merely for the victory actually achieved, but for that prompt and cool exertion of commanding talents, which, giving to courage its highest character, and to the force applied its full effect, proved that more could have been done in a contest requiring more.

Anxious to abridge the evils from which a state of war cannot be exempt, I lost no time after it was declared in conveying to the British government the terms on which its progress might be arrested, without awaiting the delays of a formal and final pacification. And our charge d'af-

faires at London was, at the same time, authorised to agree to an armistice founded upon them. These terms required, that the orders in council should be repealed as they affected the United States, without a revival of blockades violating acknowledged rules; and that there should be an immediate discharge of American seamen from British ships, and a stop to impressment from American ships, with an understanding that an exclusion of the seamen of each nation from the ships of the other should be stipulated; and that the armistice should be improved into a definitive and comprehensive adjustment of depending controversies. Although a repeal of the orders susceptible of explanations meeting the views of this government, had taken place before this pacific advance was communicated to that of Great Britain, the advance was declined, from an avowed repugnance to a suspension of the practice of impressments during the armistice, and without any intimation that the arrangement proposed with respect to seamen would be accepted. Whether the subsequent communications from this government, affording an occasion for re considering the subject, on the part of Great Britain, will be viewed in a more favorable light, or received in a more accommodating spirit, remains to be known. It would be unwise to relax our measures, in any respect, on a presumption of such a result.

The documents from the Department of State, which relate to this subject, will give a view also of the propositions for an armistice, which have been received here, one of them from the authorities at Halifax and in Canada, the other from the British government itself, through Admiral Warren; and of the grounds on which neither of them could be accepted.

Our affairs with France retain the posture

which they held at my last communications to you. Notwithstanding the authorised expectations of an early as well as favorable issue to the discussions on foot; these have been procrastinated to the latest date. The only intervening occurrence meriting attention, is the promulgation of a French decree purporting to be a definitive repeal of the Berlin and Milan decrees. This preceeding, although made the ground of the repeal of the British orders in council, is rendered, by the time and manner of it, liable to many objections.

The final communications from our special minister to Denmark, afford further proofs of the good effects of his mission, and of the amicable disposition of the Danish government. From Russia we have the satisfaction to receive assurances of continued friendship, and that it will not be affected by the rupture between the United States and Great Britain. Sweden also professes sentiments favorable to the subsisting harmony

With the Barbary powers, excepting that of Algiers, our affairs remain on the ordinary footing. The Consul General residing with that regency, has suddenly and without cause, been banished, together with all the American citizens found there. Whether this was the transitory effect of capricious despotism, or the first act of predetermined hostility, is not ascertained Precautions were taken by the Consul, on the latter supposition.

The Indian tribes, not under foreign instigations, remain at peace, and receive the civilising attentions, which have proved so beneficial to them

With a view to that vigorous prosecution of the war, to which our national faculties are adequate, the attention of Congress will be particu-

larly drawn to the insufficiency of existing provisions for filling up the military establishment. Such is the happy condition of our country, arising from the facility of subsistence and the high wages for every species of occupation, that notwithstanding the augmented inducements provided at the last session, a partial success only has attended the recruiting service. The deficiency has been necessarily supplied during the campaign, by other than regular troops, with all the inconveniences and expense incident to them. The remedy lies, in establishing, more favorably for the private soldier, the proportion between his recompense and the term of his enlistment. And it is a subject which cannot too soon or too seriously be taken into consideration.

The same insufficiency has been experienced in the provisions for volunteers made by an act of the last session. The recompense for the service required in this case, is still less attractive than in the other. And although patriotism alone has sent into the field some valuable corps of that description, those alone who can afford the sacrifice, can be reasonably expected to yield to that impulse.

It will merit consideration also whether, as auxiliary to the security of our frontiers, corps may not be advantageously organized, with a restriction of their services to particular districts convenient to them. And whether the local and occasional services of mariners and others in the sea port towns, under a similar organization, would not be a provident addition to the means of their defence.

I recommend a provision for an increase of the general officers of the army, the deficiency of which has been illustrated by the number and distance of separate commands, which the course

of the war and the advantage of the service have required.

And I cannot press too strongly, on the earliest attention of the Legislature, the importance of the re-organization of the staff establishment; with a view to render more distinct and definite the relations and responsibilities of its several departments That there is room for improvements which will materially promote both economy and success, in what appertains to the army and the war, is equally inculcated by the examples of other countries, and by the experience of our own.

A revision of the militia laws for the purpose of rendering them more systematic and better adapting them to emergencies of the war, is at this time particularly desirable.

Of the additional ships authorised to be fitted for service, two will be shortly ready to sail; a third is under repair and delay will be avoided in the repair of the residue. Of the appropriations for the purchase of materials for ship building, the greater part has been applied to that object, and the purchase will be continued with the balance.

The enterprizing spirit which has characterised our naval force, and its success both in restraining insults and depredations on our coasts, and in reprisals on the enemy, will not fail to recommend an enlargement of it.

There being reason to believe that the act prohibiting the acceptance of British licenses, is not a sufficient guard against the use of them for purposes favorable to the interests and views of the enemy; further provisions on that subject are highly important. Nor is it less so, that penal enactments should be provided for cases of corrupt and perfidious intercourse with the enemy, not amounting to treason, nor yet embraced by any statutory provisions.

A considerable number of American vessels, which were in England when the revocation of the orders in council took place, were laden with British manufactures, under an erroneous impression that the non-importation act would immediately cease to operate, and have arrived in the United States. It did not appear proper to exercise, on unforeseen cases of such magnitude, the ordinary powers vested in the Treasury Department to mitigate forfeitures, without previously affording to Congress an opportunity of making on the subject such provision as they may think proper. In their decision they will doubtless equally consult what is due to equitable considerations and to the public interest.

The receipts into the Treasury, during the year ending on the 30th of September last, have exceeded sixteen millions and a half of dollars; which have been sufficient to defray all the demands on the Treasury to that day, including a necessary re-imbursement of near three millions of the principal of the public debt. In these receipts is included a sum of near $5,850,000, received on account of the loans authorised by the acts of the last session: the whole sum actually obtained on loan amounts to eleven millions of dollars, the residue of which, being receivable subsequent to the 30th of September last, will, together with the current revenue, enable us to defray all the expenses of this year.

The duties on the late unexpected importations of British manufactures, will render the revenue of the ensuing year more productive than could have been anticipated.

The situation of our country, fellow citizens, is not without its difficulties; though it abounds in animating considerations of which the view here presented of our pecuniary resources is an example. With more than one nation we have

serious and unsettled controversies; and with one, powerful in the means and habits of war, we are at war. The spirit and strength of the nation are nevertheless equal to the support of all its rights, and to carry it through all its trials. They can be met in that confidence. Above all, we have the inestimable consolation of knowing, that the war in which we are actually engaged, is a war neither of ambition nor of vain glory; that it is waged, not in violation of the rights of others, but in the maintenance of our own; that it was preceded by a patience without example, under wrongs accumulating without end: and that it was finally not declared until every hope of averting it was extinguished, by the transfer of the British sceptre into new hands, clinging to former councils; and until declarations were reiterated to the last hour, through the British envoy here, that the hostile edicts against our commercial rights and our maritime independence would not be revoked; nay that they could not be revoked, without violating the obligations of Great Britain to other powers, as well as to her own interests. To have shrunk, under such circumstances, from manly resistance, would have been a degradation blasting our best and proudest hopes: it would have struck us from the high rank, where the virtuous struggles of our fathers had placed us, and have betrayed the magnificent legacy which we hold in trust for future generations. It would have acknowledged, that on the element, which forms three fourths of the globe we inhabit, and where all independent nations have equal and common rights, the American people were not an independent people, but colonists and vassals. It was at this moment, and with such an alternative, that war was chosen. The nation felt the necessity of it, and called for it. The appeal was accordingly made,

in a just cause, to the just and all powerful Being who holds in his hand the chain of events and the destiny of nations. It remains only, that, faithful to ourselves, entangled in no connexions with the views of other powers, and ever ready to accept peace from the hand of justice, we prosecute the war with united counsels and with the ample faculties of the nation, until peace be so obtained, and as the only means, under the Divine blessing, of speedily obtaining it.

JAMES MADISON.

Washington, November 4, 1812.

DOCUMENTS

ACCOMPANYING

THE MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES

TO THE

TWO HOUSES OF CONGRESS,

AT

THE OPENING OF THE SECOND SESSION

OF THE

TWELFTH CONGRESS

NOVEMBER 4, 1812.

Read, and ordered to be printed.

WASHINGTON:

A. & G. WAY, PRINTERS.

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1812.

DOCUMENTS.

Copies of letters from Mr. Monroe to Mr. Russell.

Extract of a Letter from Mr. Monroe to Mr. Russell, dated

June 26, 1812.

" THIS letter is committed to Mr. Foster, who has promised to deliver it to you in safety.

On the 18th of this month a declaration of war against Great Britain passed congress. I send you a copy of the act, of the president's message, and of the report of the committee of foreign relations, which brought the subject under consideration.

This measure has been produced by the continued aggressions of the British government on the rights of the United States, and the presumption arising from that and other facts, which it is unnecessary to recite, that no favorable change of policy might be expected from it. It was impossible for the United States to surrender their rights, by relinquishing the ground which they had taken, and it was equally incompatible with their interests and character to rely longer on measures which had failed to accomplish their objects. War was the only remaining alternative, and that fact being clearly ascertained, you will find by the documents transmitted, that it was adopted with decision.

As war has been resorted to by necessity, and of course with reluctance, this government looks for-

ward to the restoration of peace, with much interest, and a sincere desire to promote it on conditions just, equal and honorable to both the parties. It is in the power of Great Britain to terminate the war on such conditions, and it would be very satisfactory to the president to meet it, in arr ngements to that effect.

Although there are many just and weighty causes of complaint against Great Britain, you will perceive, by the documents transmitted, that the rders in council, and other blockades, illegal, according to the principles lately acknowledged, and the impressment of our seamen, are considered to be of the highest importance. If the orders in council are repealed, and no illegal blockades are substituted to them, and orders are given to discontinue the impressment of seamen from our vessels, and to restore those already impressed, there is no reason why hostilities should not immediately cease. Securing these objects, you are authorized to stipulate an armistice, to commence from the signature of the instrument providing for it, or at the end of fifty or sixty days, or other the shortest term that the British government will assent to. Definitive arrangements will be made on these, and every other difference, by a treaty, to be concluded either here or at London, though it is much desired that the subject should be entered on in this city.

As an inducement to the British government to discontinue the practice of impressment from our vessels, you may give assurance that a law will be passed (to be reciprocal) to prohibit the employment of British seamen in the public or commercial service of the United States. There can be no doubt that such an arrangement would prove much more efficacious, in securing to Great Britain her seamen, than the practice to which it is proposed to be a substitute, independent of all the other objections to it.

Indemnity for injuries received, under the orders in council, and other edicts violating our rights, seems to be incident to their repeal; but the president is

willing that the consideration of that claim should not be pressed at this time, so as to interfere with the preliminary arrangement alluded to. It will be proper to bring it into view merely to shew that it is expected that provision will be made for it in the treaty which is to follow. Every other interest may also be provided for at the same time.

It is hoped that the British government will find it consistent with its interest and honor, to terminate the war by an armistice in the manner, and on the conditions proposed. In so doing, it will abandon no right, it will sacrifice no interest; it will abstain only from violating our rights, and, in return, it will restore peace with the power from whom, in friendly commercial intercourse, so many advantages will be derived, not to mention the injuries which cannot fail to result from a prosecution of the war."

Mr. Monroe to Mr. Russell, dated

DEPARTMENT OF STATE,
July 27, 1812.

SIR,

I wrote you on the 26th of June, by Mr. Foster, a letter which he promised to deliver to you in person or by a safe hand.

In that letter you were informed that the orders in council, and other illegal blockades, and the impressment of our seamen by Great Britain, as you well knew before, were the principal causes of the war, and that if they were removed, you might stipulate an armistice, leaving them and all other grounds of difference for final and more precise adjustment by treaty. As an inducement to the British government to discontinue the practice of impressment from our vessels, by which alone our seamen can be made

secure, you were authorized to stipulate a prohibition by law, to be reciprocal, of the employment of British seamen in the public or commercial service of the United States. As such an arrangement, which might be made completely effectual and satisfactory by suitable regulations and penalties, would operate almost exclusively in favor of Great Britain; for as few of our seamen ever enter voluntarily into the British service, the reciprocity would be nominal; its advantage to Great Britain would be more than an equivalent for any she derives from impressment, which alone ought to induce her to abandon the practice, if she had no other motive for it. A stipulation to prohibit by law the employment of British seamen in the service of the United States, is to be understood in the sense and spirit of our constitution. The passage of such a law must depend of course on congress, who it might reasonably be presumed would give effect to it.

By authorizing you to secure these objects as the grounds of an armistice, it was not intended to restrict you to any precise form in which it should be done. It is not particularly necessary that the several points should be specially provided for in the convention stipulating the armistice. A clear and distinct understanding with the British government on the subject of impressment, comprising in it the discharge of the men already impressed, and on future blockades, if the orders in council are revoked, is all that is indispensable. The orders in council being revoked, and the proposed understanding on the other points, that is, on blockades and impressment, being first obtained, in a manner, though informal, to admit of no mistake or disagreement hereafter, the instrument providing for the armistice may assume a general form, especially if more agreeable to the British government. It may for example be said in general terms, "that both powers being sincerely desirous to terminate the differences which unhappily subsist be-

tween them, and equally so, that full time should be given for the adjustment thereof, agree, 1st That an armistice shall take place for that purpose, to commence on the day of

" 2d. That they will forthwith appoint on each side commissioners with full power to form a treaty, which shall provide, by reciprocal arrangements, for the security of their seamen from being taken or employed in the service of the other power, for the regulation of their commerce, and all other interesting questions now depending between them.

" 3d. The armistice shall not cease without a previous notice by one to the other party of days, and shall not be understood as having other effect than merely to suspend military operations by land and by sea."

By this you will perceive that the president is desirous of removing every obstacle to an accommodation, which consists merely of form. Securing in a safe and satisfactory manner the rights and interests of the United States in these two great and essential circumstances, as it is presumed may be accomplished by the proposed understanding, he is willing that it be done in a manner the most satisfactory and honorable to Great Britain, as well as to the United States.

I have the honor to be, &c.

(Signed) JAMES MONROE.

Mr. Graham to Mr. Russell, dated

DEPARTMENT OF STATE,

August 9th, 1812.

SIR,

The secretary left this city about ten days ago on a short visit to Virginia. Since that period, Mr. Baker has, in consequence of some despatches from

his government addressed to Mr. Foster, made to me a communication respecting the intentions of his government as regards the orders in council. It was of a character, however, so entirely informal and confidential that Mr. Baker did not feel himself at liberty to make it in the form of a note verbal or pro memoria, or even to permit me to take a memorandum of it at the time he made it. As it authorizes an expectation that something more precise and definite in an official form may soon be received by this government, it is the less necessary that I should go into an explanation of the views of the president in relation to it, more particularly as the secretary of state is daily expected, and will be able to do it in a manner more satisfactory.

I refer you to the inclosed papers for information as to the maritime and military movements incident to the war, and will add, that the president is anxious to know, as soon as possible, the result of the proposals you were authorized to make to the British government, respecting an armistice. He considers them so fair and reasonable, that he cannot but hope that they will be acceded to, and thus be the means of hastening an honorable and permanent peace.

I have the honor, &c.

(Signed) JOHN GRAHAM.

Mr. Graham to Mr. Russell, dated

DEPARTMENT OF STATE,

August 10th, 1812.

SIR,

Thinking that it may possibly be useful to you, I do myself the honor to enclose a memorandum of the conversation between Mr. Baker and myself alluded to in my letter of yesterday's date. From a con-

versation with Mr. Baker since this memorandum was made, I find that I was correct in representing to the president that the intimation from Mr. Foster and the British authorities at Halifax was to be understood as connected with a suspension of hostilities on the frontiers of Canada.

I have the honor, &c.

JOHN GRAHAM.

(Memorandum referred to in the above letter.)

Mr. Baker verbally communicated to me for the information of the president, that he had received despatches from his government addressed to Mr. Foster, dated, I believe, about the 17th June, from which he was authorized to say, that an official declaration would be sent to this country, that the orders in council, so far as they affected the United States, would be repealed on the 1st August, to be revived on the 1st May, 1813, unless the conduct of the French government, and the result of the communications with the American government, should be such as in the opinion of his majesty to render their revival unnecessary. Mr. Baker moreover stated, that the orders would be revived, provided the American government did not, within fourteen days after they received the official declaration of their repeal, admit British armed vessels into their ports, and put an end to the restrictive measures which had grown out of the orders in council.

The despatches authorizing this communication to the American government expressly directed that it should be made verbally, and Mr. Baker did not consider himself at liberty to reduce it to writing, even in the form of a note verbal, or pro memoria, or to suffer me to take a memorandum of his communication at the time he made it. I understood from him, that the despatches had been opened by Mr. Foster

at Halifax, who, in consequence of a conversation he had had with vice admiral Sawyer and sir John Sherbroke, had authorized Mr. Baker to say that these gentlemen would agree, as a measure leading to a suspension of hostilities, that all captures made after a day to be fixed, should not be proceeded against immediately, but be detained to await the future decision of the two governments. Mr. Foster had not seen sir George Prevost, but had written to him by express, and did not doubt but that he would agree to an arrangement for the temporary suspension of hostilities. Mr. Baker also stated that he had received an authority from Mr. Foster to act as charge des affaires, provided the American government would receive him in that character for the purpose of enabling him officially to communicate the declaration which was to be expected from the British government. His functions to be understood of course as ceasing on the renewal of hostilities.

I replied, that although to so general and informal a communication, no answer might be necessary, and certainly no particular answer expected, yet, I was authorized to say, that the communication is received with sincere satisfaction, as it is hoped that the spirit in which it was authorized by his government may lead to such further communications as will open the way, not only for an early and satisfactory termination of existing hostilities, but to that entire adjustment of all the differences which produced them, and to that permanent peace and solid friendship which ought to be mutually desired by both countries, and which is sincerely desired by this. With this desire, an authority was given to Mr. Russell on the subject of an armistice as introductory to a final pacification, as has been made known to Mr. Foster, and the same desire will be felt on the receipt of the further and more particular communications which are shortly to be expected, with respect to the joint intimation from Mr. Foster and the British authorities at Halifax on the

subject of suspending judicial proceedings in the case of maritime captures, to be accompanied by a suspension of military operations. The authority given to Mr. Russell just alluded to, and of which Mr. Foster was the bearer, is full proof of the solicitude of the government of the United States to bring about a general suspension of hostilities on admissible terms, with as little delay as possible. It was not to be doubted, therefore, that any other practicable expedient for attaining a similar result would readily be concurred in. Upon the most favorable consideration, however, which could be given to the expedient suggested through him, it did not appear to be reducible to any practical shape to which the executive would be authorized to give it the necessary sanction; nor indeed is it probable that if it was less liable to insuperable difficulties, that it could have any material effect previous to the result of the pacific advance made by this government, and which must, if favorably received, become operative as soon as any other arrangement that could now be made. It was stated to Mr. Baker that the president did not, under existing circumstances, consider Mr. Foster as vested with the power of appointing a charge des affaires; but that no difficulty in point of form would be made, as any authentic communication through him, or any other channel, would be received with attention and respect.

Extract of a letter from the Secretary of State to Mr. Russell, dated

DEPARTMENT OF STATE,

August 21st, 1812.

"MY last letter to you was of the 27th July, and was forwarded by the British packet, the Althea, up-

der the special protection of Mr. Baker. The object of that letter, and of the next preceding one of the 26th of June, was, to invest you with power to suspend by an armistice, on such fair conditions as it was presumed could not be rejected, the operation of the war, which had been brought on the United States by the injustice and violence of the British government. At the moment of the declaration of war, the president regretting the necessity which produced it, looked to its termination and provided for it; and happy will it be for both countries, if the disposition felt, and the advance thus made on his part, are entertained and met by the British government in a similar spirit.

You have been informed by Mr. Graham of what passed in my late absence from the city, in an interview between Mr. Baker and him, in consequence of a despatch from the British government to Mr. Foster, received at Halifax just before he sailed for England, and transmitted by him to Mr. Baker, relating to a proposed suspension or repeal of the British orders in council. You will have seen by the note forwarded to you by Mr. Graham, of Mr. Baker's communication to him, that Mr. Foster had authorized him to state, that the commanders of the British forces at Halifax would agree to a suspension, after a day to be fixed, of the condemnation of prizes to await the decision of both governments, without however preventing captures on either side. It appears, also, that Mr. Foster had promised to communicate with sir George Prevost, and to advise him to propose to our government an armistice.

Sir George Prevost has since proposed to general Dearborn, at the suggestion of Mr. Foster, a suspension of offensive operations by land, in a letter which was transmitted by the general to the secretary at war. A provisional agreement was entered into between general Dearborn and col. Baynes, the British adjutant general, bearer of general Prevost's letter, that

neither party should act offensively, before the decision of our government should be taken on the subject.

Since my return to Washington, the document alluded to in Mr. Foster's despatch, as finally decided on by the British government, has been handed to me by Mr. Baker, with a remark that its authenticity might be relied on. Mr. Baker added, that it was not improbable that the admiral at Halifax might agree likewise to a suspension of captures, though he did not profess or appear to be acquainted with his sentiments on that point.

On full consideration of all the circumstances which merit attention, the president regrets that it is not in his power to accede to the proposed arrangement. The following are among the principal reasons which have produced this decision.

1. The president has no power to suspend judicial proceedings on prizes. A capture, if lawful, vests a right, over which he has no controul. Nor could he prevent captures otherwise than by an indiscriminate recall of the commissions granted to our privateers, which he could not justify under existing circumstances.

2. The proposition is not made by the British government, nor is there any certainty that it would be approved by it. The proposed arrangement, if acceded to, might not be observed by the British officers themselves, if their government, in consequence of the war, should give them instructions of a different character, even if they were given without a knowledge of the arrangement.

3. No security is given, or proposed, as to the Indians, nor could any be relied on. They have engaged in the war on the side of the British government, and are now prosecuting it with vigour, in their usual savage mode. They can only be restrained by force, when once let loose, and that force has already been ordered out for the purpose.

4. The proposition is not reciprocal; because it restrains the United States from acting where their power is greatest, and leaves Great Britain at liberty, and gives her time to augment her forces in our neighbourhood.

5. That as a principal object of the war is to obtain redress against the British practice of impressment, an agreement to suspend hostilities even before the British government is heard from on that subject, might be considered a relinquishment of that claim.

6. It is the more objectionable, and of the less importance, in consideration of the instructions heretofore given you, which, if met by the British government, may have already produced the same result in a greater extent and more satisfactory form.

I might add, that the declaration itself is objectionable in many respects, particularly the following: 1. Because it asserts a right in the British government to restore the orders in council, or any part thereof, to their full effect, on a principle of retaliation on France under circumstances of which she alone is to judge; a right which this government cannot admit, especially in the extent heretofore claimed, and acted on by the British government.

2. That the repeal is founded exclusively on the French decree of 28th April, 1811, by which the repeal of the decrees of Berlin and Milan, announced on the 5th August, 1810, to take effect on the 1st of November, of that year, at which time their operation actually ceased, is disregarded, as are the claims of the United States arising from the repeal on that day, even according to the British pledge.

3. That even if the United States had no right to claim the repeal of the British orders in council prior to the French decree of the 28th of April, 1811, nor before the notification of that decree to the British government on the 20th of May, of the present year, the British repeal ought to have borne date from that

day, and been subject to none of the limitations attached to it.

These remarks on the declaration of the prince regent, which are not pursued with rigor, nor in the full extent which they might be, are applicable to it, in relation to the state of things which existed before the determination of the United States to resist the aggressions of the British government by war. By that determination the relations between the two countries have been altogether changed, and it is only by a termination of the war, or by measures leading to it by consent of both governments, that its calamities can be closed or mitigated. It is not now a question whether the declaration of the prince regent is such as ought to have produced a repeal of the non-importation act, had war not been declared; because by the declaration of war, that question is superseded, and the non importation act having been continued in force by congress, and become a measure of war, and among the most efficient, it is no longer subject to the controul of the executive in the sense, and for the purpose for which it was adopted.

The declaration, however, of the prince regent, will not be without effect. By repealing the orders in council without reviving the blockade of May, 1806, or any other illegal blockade, as is understood to be the case, it removes a great obstacle to an accommodation. The president considers it an indication of a disposition in the British government to accommodate the differences which subsist between the countries, and I am instructed to assure you, that if such disposition really exists, and is persevered in, and is extended to other objects, especially the important one of impressment, a durable and happy peace and reconciliation cannot fail to result from it."

Mr. Russell to the Secretary of State, inclosing a correspondence with Lord Castlereagh, on the subject of an Armistice.

Mr. Russell to Mr. Monroe.

LONDON, September 1, 1812.

SIR,

YOU will perceive by the inclosed copies of notes which have passed betweed lord Castlereagh and me, that the moderate and equitable terms proposed for a suspension of hostilities, have been rejected, and that it is my intention to return immediately to the United States.

My continuance here, after it has been so broadly intimated to me by his lordship that I am no longer acknowledged in my diplomatic capacity, and after a knowledge that instructions are given to the British admiral to negotiate an arrangement on the other side of the Atlantic, would, in my view of the subject, not only be useless, but improper.

It is probable, however, that the vessel in which I propose to embark, will not take her departure before the 15th or 20th of this month.

I have the honor to be,

With great consideration,

Sir,

Your assured and obedient servant,

(Signed) JONA. RUSSELL.

James Monroe, esq. &c.

Mr. Russell to Lord Castlereagh.

LONDON, 24th August, 1812.

MY LORD,

IT is only necessary, I trust, to call the attention of your lordship to a review of the conduct of the government of the United States, to prove incontrovertibly its unceasing anxiety to maintain the relations of peace and friendship with Great Britain. Its patience in suffering the many wrongs which it has received, and its perseverance in endeavoring by amicable means to obtain redress, are known to the world. Despairing, at length, of receiving this redress from the justice of the British government, to which it had so often applied in vain, and feeling that a further forbearance would be a virtual surrender of interests and rights essential to the prosperity and independence of the nation, confided to its protection, it has been compelled to discharge its high duty by an appeal to arms. While, however, it regards this course as the only one which remained for it to pursue with a hope of preserving any portion of that kind of character which constitutes the vital strength of every nation, yet it is still willing to give another proof of the spirit which has uniformly distinguished its proceedings, by seeking to arrest, on terms consistent with justice and honor, the calamities of war. It has, therefore, authorized me to stipulate with his Britannic majesty's government an armistice, to commence at or before the expiration of 60 days after the signature of the instrument providing for it, on condition that the orders in council be repealed, and no illegal blockades be supstituted to them, and that orders be immediately given to discontinue the impressment of persons from American vessels, and to restore the citizens of the United States already impressed; it being moreover well understood that the British government will assent to enter into definitive arrangements, as soon as may be, on

these and every other difference, by a treaty to be concluded either at London or Washington, as, on an impartial consideration of existing circumstances, shall be deemed most expedient.

As an inducement to Great Britain to discontinue the practice of impressment from American vessels, I am authorized to give assurance that a law shall be passed (to be reciprocal) to prohibit the employment of British seamen in the public or commercial service of the United States.

It is sincerely believed that such an arrangement would prove more efficacious in securing to Great Britain her seamen than the practice of impressment, so derogatory to the sovereign attributes of the United States and so incompatible with the personal rights of their citizens.

Your lordship will not be surprised that I have presented the revocation of the orders in council as a preliminary to the suspension of hostilities, when it is considered that the act of the British government of the 23d of June last, ordaining that revocation, is predicated on conditions, the performance of which is rendered impracticable by the change which is since known to have occurred in the relations between the two countries. It cannot now be expected that the government of the United States will, immediately on due notice of that act, revoke, or cause to be revoked, its acts, excluding from the waters and harbours of the United States all British armed vessels, and interdicting commercial intercouse with Great-Britain. Such a procedure would necessarily involve consequences too unreasonable and extravagant to be, for a moment, presumed. The order in council of the 23d of June last will, therefore, according to its own terms, be null and of no effect, and a new act of the British government, adapted to existing circumstances, is obviously required for the effectual repeal of the orders in council, of which the United States complain.

The government of the United States considers indemnity for injuries received under the orders in council, and other edicts, violating the rights of the American nation, to be incident to their repeal, and it believes that satisfactory provision will be made in the definitive treaty, to be hereafter negotiated, for this purpose.

The conditions now offered to the British government for the termination of the war by an armistice, as above stated, are so moderate and just in themselves, and so entirely consistent with its interest and honor, that a confident hope is indulged, that it will not hesitate to accept them. In so doing, it will abandon no right, it will sacrifice no interest; it will abstain only from violating the rights of the United States, and, in return, it will restore peace with the power, from whom, in a friendly commercial intercourse, so many advantages are to be derived.

Your lordship is undoubtedly aware of the serious difficulties with which a prosecution of the war, even for a short period, must necessarily embarrass all future attempts at accommodation. Passions exasperated by injuries—alliances or conquests on terms which forbid their abandonment, will inevitably hereafter embitter and protract a contest which might now be so easily and happily terminated.

Deeply impressed with these truths, I cannot but persuade myself that his royal highness, the prince regent, will take into his early consideration the propositions herein made on behalf of the United States, and decide on them in a spirit of conciliation and justice.

I have the honor to be,
With high consideration,
My lord,
Your lordship's most obed't servant,

(Signed) JONA. RUSSELL.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, August 29, 1812.

SIR,

ALTHOUGH the diplomatic relations between the two governments have been terminated by a declaration of war on the part of the United States, I have not hesitated, under the peculiar circumstances or the case, and the authority under which you act, to submit to the prince regent the proposition contained in your letter of the 24th for a suspension of hostilities.

From the period at which your instructions must have been issued, it is obvious that this overture was determined upon by the government of the United States, in ignorance of the order in council of the 23d June last, and, as you inform me that you are not at liberty to depart from the conditions set forth in your letter, it only remains for me to acquaint you that the prince regent feels himself under the necessity of declining to accede to the proposition therein contained, as being, on various grounds, absolutely inadmissible.

As soon as there was reason to apprehend that Mr. Foster's functions might have ceased in America, and that he might have been obliged to withdraw himself, in consequence of war being declared, from the United States, before the abovementioned order of the 23d of June, and the instructions consequent thereupon could have reached him, measures were taken for authorizing the British admiral on the American station to propose to the government of the United States an immediate and reciprocal revocation of all hostile orders, with the tender of giving full effect, in the event of hostilities being discontinued, to the provisions of the said order, upon the conditions therein specified.

From this statement you will perceive that the view you have taken of this part of the subject is incorrect; and that in the present state of the relations

between the two countries, the operation of the order of the 23d June can only be defeated by a refusal on the part of your government to desist from hostilities, or to comply with the conditions expressed in the said order.

Under the circumstances of your having no powers to negotiate I must decline entering into a detailed discussion of the propositions which you have been directed to bring forward.

I cannot, however, refrain on one single point from expressing my surprise, namely, that as a condition preliminary even to a suspension of hostilities, the government of the United States should have thought fit to demand that the British government should desist from its ancient and accustomed practice of impressing British seamen from the merchant ships of a foreign state, simply on the assurance that a law shall hereafter be passed, to prohibit the employment of British seamen in the public or commercial service of that state.

The British government now, as heretofore, is ready to receive from the government of the United States, and amicably to discuss, any proposition which professes to have in view either to check abuse in the exercise of the practice of impressment, or to accomplish, by means less liable to vexation, the object for which impressment has hitherto been found necessary; but they cannot consent to suspend the exercise of a right upon which the naval strength of the empire mainly depends, until they are fully convinced that means can be devised, and will be adopted, by which the object to be obtained by the exercise of that right can be effectually secured.

I have the honor to be,

Sir,

Your most obedient humble servant,

(Signed) CASTLEREAGH.

Jonathan Russell, esquire, &c. &c.

Mr. Russell to Lord Castlereagh.

18 BENTINCK STREET,

September 1st, 1812.

MY LORD,

I have learnt with much regret by your lordship's note, dated the 29th ultimo, which I did not receive until this morning, that the prince regent has thought proper to decline to accede to the proposition for a suspension of hostilities, contained in my note of the 24th of August.

It has been matter of surprise to me that my view with regard to the revocation of the orders in council, on the 23d of June last, should have been considered to have been incorrect, when it appears by your lordship's note that the British government itself has deemed it necessary to give powers to the British admiral to stipulate for its full effect, and thereby admitted that a new act was required for that purpose.

It now only remains for me to announce to your lordship that it is my intention to embark immediately at Plymouth on board the ship Lark, for the United States, and to request that permission may be granted, as soon as may be, for the embarkation of my servants, baggage, and the effects of this legation, and that the necessary passports may be furnished for my own and their safe conduct to that destination.

I avail myself of this occasion to apprize your lordship that I am authorized by the government of the United States to leave Reuben Gaunt Beasley, esq. as its agent for prisoners of war in this country, and to desire that every necessary facility may be afforded him in the exercise of that trust, by the British government.

I have the honor to be,
My Lord,
Your lordship's most obedient humble servant,
(Signed) JONATHAN RUSSELL.

The right honorable lord Castlereagh, &c.

Mr. Russell to Mr. Monroe.

LONDON, September 3d, 1812.

SIR,

I inclose herein a copy of a note received yesterday from Lord Castlereagh, which will acquaint you that I have obtained my passports to return to the United States, and that Mr. Beasley is permitted to remain here as agent for prisoners of war.

Immediately on demanding my passports, I addressed to the consuls a circular, of which you will also find a copy inclosed.

The Swiftsure packet sailed on the 31st of last month from Falmouth for America, and it is very probable that she takes out instructions suggested by the overture made here, but there is no reason to believe that they can be of a nature to satisfy the United States.

I have the honor to be, &c.

(Signed) JONA. RUSSELL.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE,

September 2d, 1812.

SIR,

I have laid before his royal highness the prince regent, your letter of the 1st instant, in which you announce your intention to embark immediately at Plymouth on board the ship Lark, for the United States.

I have already had the honor of forwarding to you an admiralty order for the protection of that ship as a cartel, on her voyage to America; and I herewith inclose to you a passport for the free embarkation of

yourself and family, in conformity to your request. The lords commissioners of his majesty's treasury will issue directions to the commissioners of the customs to give every facility to the embarkation of your effects.

If, previous to your departure from England, you can point out to me any particular manner in which I can facilitate your arrangements, I beg that you will command my services.

His royal highness has commanded me to signify to you, for the information of your government, that there will be no difficulty in allowing Mr. R. G. Beasley, as stated in your letter, to reside in this country as the United States' agent for prisoners of war.

I have the honor to be, &c.

(Signed) CASTLEREAGH.

Letter from Admiral Warren to the Secretary of State, with his answer thereto.

Admiral Warren to the Secretary of State.

HALIFAX, NOVA SCOTIA,

September 30, 1812.

SIR,

The departure of Mr. Foster from America, has devolved upon me the charge of making known to you, for the information of the government of the United States, the sentiments entertained by his royal highness, the prince regent, upon the existing relations of the two countries.

You will observe from the inclosed copy of an order in council bearing date the 23d of June, 1812, that the orders in council of the 7th of January, 1807, and the 26th of April, 1809, ceased to exist nearly at the same time that the government of the United States declared war against his majesty.

Immediately on the receipt of this declaration in London, the order in council of which a copy is herewith inclosed to you, was issued on the 31st day of July, for the embargo and detention of all American ships.

Under these circumstances I am commanded to propose to your government the immediate cessation of hostilities between the two countries, and I shall be most happy to be the instrument of bringing about a reconciliation, so interesting and beneficial to America and Great Britain.

I therefore propose to you, that the government of the United States of America shall instantly recall their letters of marque and reprisal against British ships, together with all orders and instructions for any

acts of hostility whatever against the territories of his majesty or the persons or property of his subjects; with the understanding that, immediately on my receiving from you an official assurance to that effect, I shall instruct all the officers under my command to desist from corresponding measures of war against the ships and property of the United States, and that I shall transmit without delay corresponding intelligence to the several parts of the world, where hostilities may have commenced; the British commanders in which will be required to discontinue hostilities from the receipt of such notice.

Should the American government accede to the above proposal for terminating hostilities, I am authorized to arrange with you, as to the revocation of the laws which interdict the commerce and ships of war of Great Britain from the harbors and waters of the United States; in default of which revocation within such reasonable periods as may be agreed upon, you will observe by the order of the 23d June, the orders in council of January 1807, and April 1809, are to be revived.

The officer who conveys this letter to the American coast has received my orders to put to sea immediately upon the delivery of this despatch to the competent authority; and I earnestly recommend that no time may be lost in communicating to me the decision of your government, persuaded as I feel, that it cannot but be of a nature to lead to a speedy termination of the present differences.

The flag of truce which you may charge with your reply, will find one of my cruizers at Sandy Hook t[illegible] days after the landing of this despatch, which I ha[illegible] directed to call there with a flag of truce for that purpose.

I have the honor, &c.

(Signed) JOHN BORLASE WARREN,

Admiral of the Blue
and Commander in Chief, &c. &c. &c

The Secretary of State to Admiral Warren.

DEPARTMENT OF STATE,

October 27, 1812.

SIR,

I have had the honor to receive your letter of the 30th ultimo, and to submit it to the consideration of the president.

It appears that you are authorized to propose a cessation of hostilities between the United States and Great Britain, on the ground of the repeal of the orders in council, and in case the proposition is acceded to, to take measures in concert with this government to carry it into complete effect on both sides.

You state also, that you have it in charge, in that event, to enter into an arrangement with the government of the United States for the repeal of the laws which interdict the ships of war, and the commerce of Great Britain, from the harbours and waters of the United States. And you intimate that if the proposition is not acceded to, the orders in council, repealed conditionally by that of the 23d June last, will be revived against the commerce of the United States.

I am instructed to inform you that it will be very satisfactory to the president to meet the British government in such arrangements as may terminate, without delay, the hostilities which now exist between the United States and Great Britain, on conditions honorable to both nations.

At the moment of the declaration of war, the president gave a signal proof of the attachment of the United States to peace. Instructions were given, at that early period, to the late charge des affaires of the United States at London, to propose to the British government an armistice on conditions which it was presumed would have been satisfactory. It has been seen with regret that the proposition made by Mr. Russell, particularly in regard to the important

interest of impressment, was rejected, and that none was offered, through that channel, as a basis on which hostilities might cease.

As your government has authorized you to propose a cessation of hostilities, and is doubtless aware of the important and salutary effect which a satisfactory adjustment of this difference cannot fail to have on the future relations between the two countries, I indulge the hope that it has, ere this, given you full power for the purpose. Experience has evinced that no peace can be durable unless this object is provided for. It is presumed, therefore, that it is equally the interest of both countries to adjust it at this time.

Without farther discussing questions of right, the president is desirous to provide a remedy for the evils complained of on both sides. The claim of the British government is to take from the merchant vessels of other countries British subjects. In the practice, the commanders of British ships of war often take from the merchant vessels of the United States, American citizens. If the United States prohibit the employment of British subjects in their service, and enforce the prohibition by suitable regulations and penalties, the motive for the practice is taken away. It is in this mode that the president is willing to accommodate this important controversy with the British government, and it cannot be conceived on what ground the arrangement can be refused.

A suspension of the practice of impressment, pending the armistice, seems to be a necessary consequence. It cannot be presumed, while the parties are engaged in a negotiation to adjust amicably this important difference, that the United States would admit the right, or acquiesce in the practice of the opposite party, or that Great Britain would be unwilling to restrain her cruizers from a practice which would have the strongest tendency to defeat the negotiation. It is presumable that both parties would enter into the negotiation with a sincere desire to

give it effect. For this purpose it is necessary that a clear and distinct understanding be first obtained between them, of the accommodation which each is prepared to make. If the British government is willing to suspend the practice of impressment from American vessels, on consideration that the United States will exclude British seamen from their service, the regulations by which this compromise should be carried into effect would be solely the object of negotiation. The armistice would be of short duration. If the parties agreed, peace would be the result. If the negotiation failed, each would be restored to its former state, and to all its pretensions by recurring to war.

Lord Castlereagh, in his note to Mr. Russell, seems to have supposed that had the British government accepted the proposition made to it, Great Britain would have suspended, immediately, the exercise of a right, on the mere assurance of this government that a law would be afterwards passed to prohibit the employment of British seamen in the service of the United States, and that Great Britain would have no agency in the regulations to give effect to that prohibition. Such an idea was not in the contemplation of this government, nor is it to be reasonably inferred from Mr. Russell's note. Lest, however, by possibility such an inference might be drawn from the instructions to Mr. Russell, and anxious that there should be no misunderstanding in the case, subsequent instructions were given to Mr. Russell, with a view to obviate every objection of the kind alluded to. As they bear date on the 27th of July, and were forwarded by the British packet Althea, it is more than probable that they may have been received and acted on.

I am happy to explain to you thus fully the views of my government on this important subject. The president desires that the war which exists between our countries should be terminated on such conditions as may secure a solid and durable peace. To

accomplish this great object it is necessary that the interest of impressment be satisfactorily arranged. He is willing that Great Britain should be secured against the evils of which she complains. He seeks on the other hand, that the citizens of the United States should be protected against a practice, which, while it degrades the nation, deprives them of their rights as freemen, takes them by force from their families and their country into a foreign service to fight the battles of a foreign power, perhaps against their own kindred and country.

I abstain from entering, in this communication, into other grounds of difference. The orders in council having been repealed, with a reservation not impairing a corresponding right on the part of the United States, and no illegal blockades, revived or instituted in their stead, and an understanding being obtained on the subject of impressment, in the mode herein proposed, the president is willing to agree to a cessation of hostilities, with a view to arrange by treaty, in a more distinct and ample manner, and to the satisfaction of both parties, every other subject of controversy.

I will only add that if there be no objection to an accommodation of the difference relating to impressment in the mode proposed other than the suspension of the British claim to impressment during the armistice, there can be none to proceeding without the armistice, to an immediate discussion and arrangement of an article on that subject. This great question being satisfactorily adjusted, the way will be open for an armistice, or any other course leading most conveniently and expeditiously to a general pacification.

I have the honor, &c.

(Signed) JAMES MONROE.

Letter from Mr. Russell to the Secretary of State, inclosing a correspondence with Lord Castlereagh, on the subject of the repeal of the orders in council.

Mr. Russell to Mr. Monroe.

LONDON, 25th May, 1812.

SIR,

I have the honor to hand you herein a copy of my note of the 20th of this month, communicating to lord Castlereagh a decree of the French government, dated the 28th of February, 1811, and of two letters of the French ministers of the 25th of December, 1810. I also send you copies of that decree, and of a note from his lordship acknowledging the receipt of my communication, and engaging to submit the documents above mentioned to his royal highness the prince regent.

I have the honor, &c.

(Signed) JONA. RUSSELL.

The honorable James Monroe, &c.

Mr. Russell to Lord Castlereagh.

The undersigned, charge d'affaires of the United States of America, has the honor to transmit to lord Castlereagh authentic copies of a decree purporting to be passed by the emperor of the French on the 28th of April, 1811, of a letter addressed by the French minister of finance to the director general of the customs on the 28th December, 1810, and of another

letter of the same date from the French minister of justice to the president of the council of prizes.

As these acts explicitly recognize the revocation of the Berlin and Milan decrees, in relation to the United States, and distinctly make this revocation to take effect from the 1st November, 1810, the undersigned cannot but persuade himself that they will, in the official and authentic form in which they are now presented to his Britannic majesty's government, remove all doubt with respect to the revocation in question, and, joined with all the powerful considerations of justice and expediency so often suggested, lead to like repeal of the British orders in council, and thereby to a renewal of that perfect amity and unrestricted intercourse between this country and the United States, which the obvious interests of both nations require.

The undersigned avails himself, &c.

JONA. RUSSELL.

18, Bentick-st. 20th May, 1812.

[TRANSLATION.]

PALACE OF ST. CLOUD,

28th April, 1811.

Napoleon, Emperor of the French, &c. &c.

On the report of our minister of foreign relations:

Seeing by a law passed on the 2d March, 1811, the congress of the United States has ordered the execution of the provisions of the act of non intercourse which prohibits the vessels and merchandise of Great-Britain, her colonies and dependencies, from entering into the ports of the United States.

Considering that the said law is an act of resistance to the arbitrary pretensions consecrated by the British orders in council, and a formal refusal to adhere to a

system invading the independence of neutral powers and of their flag; we have ordered and do decree as follows:

The decrees of Berlin and Milan are definitively, and to date from 1st November last, considered as not existing in regard to American vessels.

(Signed) NAPOLEON.

By the emperor, the minister secretary of state.

(Signed) THE COUNT DARA.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, May 23, 1812.

Lord Castlereagh presents his compliments to Mr. Russell and has the honor to acknowledge the receipt of his official note of 20th instant, transmitting copies of two official letters of the French ministers, and of a decree of the French government, bearing date the 28th of April, 1811. Lord Castlereagh will immediately lay these documents before his royal highness the prince regent, and avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.

Jonathan Russell, Esq. &c.

Mr. Russell to the Secretary of State.

LONDON, 26th June, 1812.

SIR,

I have the honor to hand to you herein, an order of council of the 23d of this month, revoking the orders in council of the 7th of January, 1807, and of the 26th of April, 1809.

To this decree I have added copies of two notes of the same date from lord Castlereagh, accompanying the communication of it to me, and also a copy of my answer.

With great respect and consideration,

I am, &c.

(Signed) JONA. RUSSELL.

At the court at Carlton House the 23d of June, 1812, present his Royal Highness the Prince Regent, in Council.

WHEREAS his royal highness, the prince regent, was pleased to declare, in the name and on the behalf of his majesty, on the 21st day of April, 1812, "that if at any time hereafter the Berlin and Milan decrees shall, by some authentic act of the French government, publicly promulgated, be absolutely and unconditionally repealed, then and from thenceforth the order in council of the 7th of January, 1807, and the order in council of the 26th of April, 1809, shall, without any further order, be, and the same are hereby declared from thenceforth to be wholly and absolutely revoked.

And whereas the chargé des affaires of the United States of America, resident at this court, did, on the 20th day of May last, transmit to lord viscount Castlereagh, one of his majesty's principal secretaries of state, a copy of a certain instrument then for the first time communicated to this court, purporting to be a decree passed by the government of France on the 28th day of April, 1811, by which the decrees of Berlin and Milan are declared to be definitively no longer in force in regard to American vessels.

And whereas his royal highness, the prince regent, although he cannot consider the tenor of the said in-

strument as satisfying the conditions set forth in the said order of the 21st day of April last, upon which the said orders were to cease and determine, is nevertheless disposed on his part to take such measures as may tend to re-establish the intercourse between neutral and belligerent nations upon its accustomed principles. His royal highness the prince regent, in the name and on the behalf of his majesty, is therefore pleased, by and with the advice of his majesty's privy council, to order and declare, and it is hereby ordered and declared, that the order in council bearing date the 7th day of January, 1807, and the order in council bearing date the 26th day of April, 1809, be revoked, so far as may regard American vessels, and their cargoes being American property, from the 1st day of August next.

But whereas by certain acts of the government of the United States of America, all British armed vessels are excluded from the harbors and waters of the said United States, the armed vessels of France being permitted to enter therein, and the commercial intercourse between Great Britain and the said United States is interdicted, the commercial intercourse between France and the said United States having been restored, his royal highness the prince regent is pleased hereby further to declare, in the name and on the behalf of his majesty, that if the government of the said United States shall not, as soon as may be, after this order shall have been duly notified by his majesty's minister in America to the said government, revoke or cause to be revoked the said acts, this present order shall in that case, after due notice signified by his majesty's minister in America to the said government, be thenceforth null and of no effect.

It is further ordered and declared, that all American vessels, and their cargoes being American property, that shall have been captured subsequently to the 20th day of May last, for a breach of the aforesaid orders in council alone, and which shall not have

been actually condemned before the date of this order, and that all ships and cargoes as aforesaid that shall henceforth be captured under the said orders prior to the first day of August next, shall not be proceeded against to condemnation till further orders; but shall, in the event of this order not becoming null and of no effect, in the case aforesaid, be forthwith liberated and restored, subject to such reasonable expenses on the part of the captors as shall have been justly incurred.

Provided that nothing in this order contained, respecting the revocation of the orders herein mentioned, shall be taken to revive wholly or in part the orders in council of the 11th of November, 1807, or any other order not herein mentioned, or to deprive parties of any legal remedy to which they may be entitled under the order in council of the 21st April, 1812.

His royal highness is hereby pleased further to declare, in the name and on the behalf of his majesty, that nothing in this present order contained shall be understood to preclude his royal highness the prince regent, if circumstances shall so require, from restoring, after reasonable notice, the orders of the 7th of January, 1807, and 26th of April, 1809, or any part thereof, to their full effect, or from taking such other measures of retaliation against the enemy as may appear to his royal highness to be just and necessary.

And the right honorable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judge of the high court of admiralty, and the judges of the courts of vice admiralty, are to take the necessary measures herein, as to them may respectively appertain.

JAMES BULLER.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE,
June 23, 1812.

SIR,

I AM commanded by the prince regent to transmit to you for your information, the enclosed printed copy of an order in council which his royal highness, acting in the name and on the behalf of his majesty, was this day pleased to issue, for the revocation (on the conditions therein specified) of the orders in council of the 17th January, 1807, and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the 1st August next.

I have the honor to be, &c.

(Signed) CASTLEREAGH.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE,
June 23, 1812.

SIR,

IN communicating to your government the order in council of this date, revoking (under certain conditions therein specified) those of January 7th, and of April 26th, 1809, I am to request that you will at the same time acquaint them, that the prince regent's ministers have taken the earliest opportunity, after the resumption of the government, to advise his royal highness to the adoption of a measure grounded upon the document communicated by you to this office on the 20th ultimo; and his royal highness hopes that this proceeding, on the part of the British government, may accelerate a good understanding on all points of difference between the two states.

I shall be happy to have the honor of seeing you at the foreign office at 2 o'clock to-morrow; and beg to apprize you that one of his majesty's vessels will sail for America with the despatches of the government in the course of the present week.

I have the honor to be, &c.

(Signed) CASTLEREAGH.

Mr. Russell to Lord Castlereagh.

18, Bentinck-st. June 26, 1812.

MY LORD,

I have the honor to acknowledge the receipt of the two notes addressed to me by your lordship on the 23d of this month, inclosing an order in council, issued that day by his royal highness the prince regent, acting in the name and on the behalf of his Britannic majesty, for the revocation (on the conditions therein specified) of the orders in council of the 7th of January, 1807, and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the first of August next.

In communicating this document to my government, I shall, with much satisfaction, accompany it with the hopes which you state to be entertained by his royal highness the prince regent, that it may accelerate a good understanding on all points of difference between the two states. I am the more encouraged to believe that these hopes will not be disappointed, from the assurance which your lordship was pleased to give me, in the conversation of this morning, that, in the opinion of your lordship, the blockade of the 16th of May, 1806, had been merged in the orders in council, now revoked, and extinguished with them; and that no condition contained in the

order of the 23d instant, is to be interpreted to restrain the government of the United States from the exercise of its right to exclude British armed vessels from the harbours and waters of the United States, whenever there shall be special and sufficient cause for so doing, or whenever such exclusion shall, from a general policy, be extended to the armed vessels of the enemies of Great Britain. This assurance I am happy to consider as evidence of a conciliatory spirit, which will afford on every other point of difference an explanation equally frank and satisfactory.

I am, my lord,
With great consideration, &c.
(Signed) JONA. RUSSELL.

Mr. Russell to the Secretary of State.

LONDON, 2d July, 1812.

SIR,

I avail myself of the opportunity afforded by the British packet, to transmit to you a copy of a note from lord Castlereagh, of the 29th ultimo, which I trust will put at rest the blockade of 1806.

I acknowledged the receipt of this note, as you will observe by the inclosed copy of my reply, without a comment.

I did not think it useful to enter into a discussion at this moment concerning the legality of that blockade, which, as no new doctrine appears to be assumed, is made to depend on the fact, the application of an adequate force.

In like manner I have forborne to notice his lordship's observations concerning the exclusion, from our ports, of British vessels of war. As such exclusion is required to accord with the obligations of

strict neutrality only, the conduct and character of the government of the United States furnish security against any question arising on that subject.

I have the honor to be, &c.

(Signed) JONA. RUSSELL.

Lord Castlereagh to Mr. Russell.

FORIEGN OFFICE,
June 29, 1812.

Lord Castlereagh has the honor to acknowledge the receipt of Mr. Russell's communication of the 26th instant.

That no mistake may prevail upon the explanation given in conversation by lord Castlereagh to Mr. Russell, on the two points referred to in Mr. Russell's letter, lord Castlereagh begs leave to re-state to Mr. Russell, with respect to the blockade of May, 1806, that, in point of fact, this particular blockade has been discontinued for a length of time; the general retaliatory blockade of the enemy's ports, established under the orders in council, of November, 1807, having rendered the enforcement of it by his majesty's ships of war no longer necessary; and that his majesty's government have no intention of recurring to this or to any other blockades of the enemy's ports, founded upon the ordinary and accustomed principles of maritime law, which were in force previous to the order in council, without a new notice to neutral powers in the usual forms.

With respect to the provision of the order of the 23d instant, which refers to the admission of British ships of war into the harbors and waters of the United States, lord Castlereagh informs Mr. Russell, that this claim is made in consequence of his majesty's ships being now excluded, whilst those of the enemy

are admitted. It is the partial admission of one of the belligerents of which Great Britain feels herself entitled to complain, as a preference in favor of the enemy, incompatible with the obligations of strict neutrality. Were the exclusion general, the British government would consider such a measure, on the part of America, as matter of discussion between the two states, but not as an act of partiality of which they had in the first instance a right to complain.

Lord Castlereagh avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.

Mr. Russell to Lord Castlereagh.

18, BENTINCK STREET,
1st July, 1812.

Mr. Russell has the honor to acknowledge the receipt of the note of lord Castlereagh, dated the 29th ultimo, containing explanations relative to the two points referred to in Mr. Russell's note of the 26th of that month, and will take the earliest opportunity of communicating it to his government.

Mr. Russell begs leave to avail himself of this occasion to repeat to lord Castlereagh the assurances of his high consideration.

Mr. Erving to the Secretary of State, inclosing a correspondence with the Danish Minister of Foreign Affairs.

No. 16.

Mr. Erving to Mr. Monroe, Secretary of State.

COPENHAGEN, April 12th, 1812.

SIR,

MY last despatch upon general business was No. 12. I therein mentioned the case of the "Jane Maria," which had been cut out of the port of Swinemunde by a French privateer. Subsequent to the date of that despatch the captain arrived, but in the intermediate time a Frenchman had been put on board as a guard, and this became an obstacle to her departure. My correspondence with Mr. de Rosenkrantz on this affair is herewith submitted, viz. No. 1, December 10th; No. 2, January 11th; No. 3, January 15th; No. 4, January 15th; No. 5, January 16th, of the inclosures. I understand that one of the crew of the "Jane Maria" has appeared before a notary, and sworn that whilst the vessel lay at Swinemunde she had communication with the English, and was to have gone under their convoy. Should this declaration prove to be correct, yet I presume that she cannot therefore be condemned. The French minister does not however find himself authorized to release her, but he momentarily expects orders from his government on the subject. The papers of the vessel are in my possession.

In my despatch No. 10, I mentioned that of the cases which were pending on my arrival in Copenhagen, the "Minerva Smith," Mann, only remained to be adjudged, and that I had sought to delay it for the

purpose of procuring, and in the hope of introducing before the tribunal some further evidence. A part of the evidence to which I referred was soon afterwards received from England, and laid before the minister of state in a note of December 13th; a copy (No. 6) is inclosed, as it serves to explain the peculiar difficulties under which this, a property of very great value, was placed. No change having been produced by this representation in the opinion of the high court, I obtained that the case should be laid before the Danish chancery; and the report of that body not being sufficiently full and satisfactory, the case was transferred to the Sleswic Holstein chancery, (on the king's own suggestion) as Kiel, where the vessel was taken, being within the jurisdiction of that chancery, the affair was not properly cognizable by the Danish chancery. These various operations consumed a great deal of time; but finally towards the latter end of February the Sleswic Holstein chancery produced a very laborious and voluminous report in favor of the case, pursuant to which his majesty ordered the high court to pass sentence of acquittal.

With my aforementioned despatch, No. 10, was transmitted copy of a note to Mr. de Rosenkrantz, (of September 28) respecting the then pending cases generally. Still further to promote the object of it I again addressed him on November 3d, and in the progress of the business perceiving that the high court had lost nothing of its disposition to condemn, and had actually determined to sacrifice one of the clearest cases in the whole list, (the "Brutus") on the 13th December, I thought it necessary to require that its proceedings should be arrested, and its opinions submitted to the king through his chancery; (those two notes are Nos. 7 and 8 of the inclosed;) the necessary order was immediately given, and thus two or three cases were saved from condemnation. But though the report of the chancery on the case of

the "Brutus" was favorable, that vessel was finally condemned; the particular circumstances of her case will be seen in my note to Mr. de Rosenkrantz of April 10th, and the sentence of the tribunal (No. 7 B and 8 B) of the inclosed papers.

At the date of said despatch No 10, there were ten cases depending exclusive of French captures, and inclusive of the "Hannah" and "Two Generals," double captures, as appears by the list which was therewith transmitted. In despatch No. 11, I mentioned the release of the "Horace" and Augustus," two of the list, so that there were at that time only six cases of simple capture depending. I have now the satisfaction of informing you that the whole of these have been acquitted, the "Brutus" as abovementioned only excepted. The "Hannah" and "Two Generals" must, I fear, be determined in Paris. The French government has proposed to the Danish that without reference to these questions of jurisdiction which have always been found so difficult to arrange to the satisfaction of all parties, the simple rule shall be adopted of determining the question of prize in the tribunals of the country to which the captor may belong, in all cases where he may possess himself of the captured vessel's papers. This proposition has not been, nor do I believe that it will be, acceded to by the Danish government; yet, sir, you will readily perceive that if the French government should persist there can be very little expectation of our obtaining from this, the release of a vessel which may have been condemned by the council of prizes. There is even some reason to apprehend that it will so persist, since the French consul has now received orders from the minister of marine to transmit to Paris the papers of the ship "Olive Branch," which, as mentioned in my despatch No. 12, was seized under the very guns of the fort of Nyborg, and this case is peculiarly strong since the "Olive

Branch" had his Danish majesty's license on board. But I must in this place also mention that my correspondence with Mr. Desaugiers (lately French charge d'affairs here) which was submitted to you with despatch No. 8, having been also submitted to his government, he is now answered by the duke of Bassano, in terms strongly reprehending the excesses of the corsairs in general, and particularly reproving their practice of hoisting the French flag on board the vessels captured, of which he strictly forbids the recurrence.

The "Rachel," "Rover" and "Packet," three vessels (on the pending lists heretofore transmitted) which have been released, being partly laden with "colonial produce," were, pursuant to the established regulations with regard to vessels so laden, ordered to quit the port and to proceed on their voyages; the French privateers were then watching for and would infallibly have captured them on their departure. The copies herewith inclosed, viz. my notes to Mr. de Rosenkrantz of November 27, 28, and 29, (Nos. 9, 10 and 11) Mr. de Rosenkrantz his unofficial note of December 1st, (No. 12) my reply of same date (No. 13) Mr. de Rozenkrantz his official note of December 2d, (No. 14) relate to this matter, which you will be pleased to observe was very satisfactorily settled.

The last list of vessels which had passed this way was dated October 9; since then a few scattered vessels have presented themselves, viz.

The "Dolphin," Latham,
"America," Briggs,
} from Petersburg to the United States passed without interruption.

"Ann," How, arrived safely at Christiansand.

"Sally," Brown, turned away from Amsterdam by the English, continued her voyage towards this place and was wrecked on the coast of Jutland.

"Adriana," Abrahams, of Baltimore, belonging to Smith, & co. with a cargo of hides convoyed by the Danes from Gottenburg to Copenhagen, (having Danish license) cargo sold in Copenhagen and re-convoyed to Elsineur.

"Columbia," Jennison, (owners unknown) from St. Ubes with salt, much under the same circumstances.

"Swanwick" Clark, with a cargo of tobacco, property of Pratt and Kintzing, of Philadelphia, do. do.

"Asia," Ormsby, (Brown and Ives, of Providence) with 3500 chests of tea, arrived at Gottenburg some months since, in her voyage from thence to Copenhagen, captured by a Danish privateer, but immediately released, having the king's permission to come hither and sell.

This completes the account of our trade for the last year as far as particulars have come to my knowledge. In my despatch No. 12, I transmitted certain statements relating to that trade; triplicate of those statements were sent with No. 14, with the addition of a printed tariff of the duties payable on all merchandise passing through the Sound: a duplicate of the tariff is herewith inclosed. I have lately seen a printed statement of our exports from Petersburg during the last year made by a commercial house of that place. It agrees in general with the document No. 3, inclosed with my aforesaid despatch. It is however more complete as to the number of vessels, including all those which went up through the Belt, and gives a total of 127 (noting that in 1810 the total was 100 only) but states that 29 of the 127 were bound to European ports, having as part of their cargoes 23615 *poods of flax!* Most of these 29 probably returned through the Belt; such as passed the Sound must have had false

clearances. In the course of judicial investigations the Danes have already discovered, as is supposed, sufficient grounds for distrusting the character of our commerce: such printed information from what is called a "respectable American house" at Petersburgh, recommending itself to its correspondents by this species of industry, cannot fail to augment that distrust.

All the old and new cases being now disposed of, I herewith inclose a table (No. 19) bringing the whole of them and the proceedings which have been had on them into one view. I beg you, sir, to observe that of 38 cases of Danish capture ON THE LIST OF 1811, there have been only three appeals of the captors against the sentences of acquittal given by the inferior tribunal, so little have been their expectations of procuring final condemnations, and that excepting the three English and English license cases ("President," "Neptune," and "Aurora,"(there has been but one final condemnation, viz. the "Brutus."

I hope that upon the whole this view will be satisfactory to the president. Mr. de Rosenkrantz told me in an early interview that the administration of justice was as impartial and as prompt here as in any other country; he added (referring to the dispositions of the king) that in future we should have nothing to complain of. How far his assertion was correct, or his promise has been complied with, I will not presume to determine; but I must do that minister the justice to say that he spoke with perfect sincerity and under impressions the most just and friendly, and to believe that where the results fall short of our expectations, it has not been from any failure of those dispositions.

I have taken occasion in former despatches to mention, and in frequent representations to Mr. de Rosenkrantz, to remonstrate against the practices of fining and taxing vessels acquitted in the tribunals. These practices, nearly indiscriminate as they are, I found

to be quite unreasonable, in their application frequently most unjust; yet after all, for the amount of the exactions, they are not oppressive, perhaps had they been abolished altogether we might not have had quite so many vessels captured; there would certainly have been more appeals and might have been more condemnations. The lists herewith enclosed (paper marked No. 20) shew the sums which the cases have been charged under the several heads of costs, fines, and two per mille tax in the tribunals of Copenhagen: the two per mille goes to the king's coffer: the fine goes to the captor for his trouble in capturing where he is supposed to have had just grounds of suspicion; the court expenses are invariably forty rix dollars (equal to five and a half dollars) in each case. There are no other expenses but advocate's fees: here, as in all countries, the amount of these is settled by agreement between the council and the client; in the inferior tribunal no advocate is employed.

The situation of the masters of our vessels condemned here was formerly made the more distressing by the prosecutions to which they were exposed on account of wages due to their sailors, the laws here compelling them to provide for their crews: these laws had been executed with great rigor, and large sums had been frequently adjudged to be paid by masters who could scarcely find credit for their own subsistence. The consul had, by frequent representations, endeavoured to remedy this evil, but without success. When I came to act in this matter I was answered, that if the master deceived the men by engaging them in a vessel which was not in fact American as he pretended, it was but just that he should pay them, his sufferings then were chargeable only to his own misconduct: however, I finally obtained that it should be laid before the chancery; that tribunal, by a report of January 11, adopted by his majesty, decreed that "no law suit regarding the wages due to North American mariners from their captains shall

be admitted before the tribunals." I did not succeed in obtaining payment for the men out of the condemned vessel, but on this point thought it not prudent to go far.

With the most perfect respect,
And consideration,
I have the honor to be,
Sir,
Your very ob't serv't,
GEORGE W. ERVING.

Mr. Monroe, Secretary of State.

No. 7. B.

Mr. Erving to Mr. de Rosenkrantz.

COPENHAGEN, April 10, 1812.

SIR,

In one of the first interviews which I had with your excellency, you assured me, on the part of his majesty, "*That for the future the United States should have nothing to complain of.*" Fully relying then on the good faith and friendly sentiment in which this declaration was made, to those favorable dispositions of his majesty I have addressed all my subsequent reclamations; and the reports which I have, from time to time, submitted to my government, have corresponded to the harmony thus established in our proceedings. Judge then, sir, with what extreme concern and regret I now find myself under the necessity of protesting and reclaiming against a sentence of the high court of admiralty, grounded on the king's own decision, against the American ship Brutus and her cargo, the genuine property of American citizens, in favor of which I have been for several months negotiating with your excellency; respecting which I have furnished documentary evidence of great impor-

tance, and the circumstances of which I was so fully authorized to consider as peculiarly favorable: judge, sir, of the concern with which I see, in the sentence now given, that the reclamation which I have made in this case, has been passed over; the documents which I have furnished have been set aside, and that grounds for condemnation have been assumed, wholly insufficient, and, in part, even contrary to facts as established by those documents. I am perfectly certain that his majesty does not believe that I am capable of attempting to support any cause but the just cause of a genuine American citizen, nor shall I readily abandon the conviction that he is still actuated by the just and friendly dispositions which motived the declaration above cited; hence I must presume that the misrepresentations which have been made to him, and the influence which has been produced in his mind, on the present occasion, are of a very extraordinary character. This conclusion is the more unavoidable, since, certainly, I have long since succeeded in convincing your excellency, who has such high and indisputable title to the entire confidence of his majesty, that the cause of the Brutus is a just one; nor can I in this view fail to notice that the opinion of the chancery was in its favor; that there was a division of opinion amongst the members of the high court, and that the vessel was fully acquitted by the inferior court in Norway. By my note of December 13, 1811, I furnished to your excellency proofs that the captor's appeal from that sentence had been made only because the American captain (Fenno) refused to pay 6,000 rix dollars by way of compromise, and this complaint haveing been laid, by his majesty's order, before, and having been duly investigated by, the chancery, was deemed to be so well founded and so reasonable, that a new and severe law upon that subject was judged to be expedient. This is, in fine, the only case which has come before the king wherein he has decided unfavorably against a prior sentence

of acquittal by one of his tribunals; and it is the only case, as far as I know, wherein, a difference of opinion amongst the members of the high court existing, he has not decided in favor of the claimant. To the just and liberal principles which actuated his majesty on such occasions, in this case was added that, which even in default of other favorable circumstances, it was to be supposed could not but determine him to release the vessel... the offer on the part of the captors, and the refusal on the part of the American captain to compromise; for what stronger presumption can be furnished against the justice of the captor's claim than their offer to compromise it for a small sum, or what more favorable to a belief in the American captain's innocence than his refusal to pay that sum?

By the copy of the sentence which I have herewith the honor to inclose, your excellency will perceive that the tribunal has commenced by an assertion that captain Fenno, during his detention, attempted to escape, and that, upon this supposed attempt, are grounded its "suspicions;" but in the note which I addressed to you on the 4th January, I inclosed a document which proved most incontestably that no such attempt was made, and that the assertions of the captors, in this respect, were altogether false. How astonishing then that the high court should venture to place its sentence on such ground. The other motives mentioned in the sentence, considered as objections to *the neutrality of this ship and cargo*, are scarcely entitled to comment. What if different hand writings are found in a sea letter which issues from a department where many clerks are employed; what if "*omissions*" or "*errors*" in such or other documents? I must observe, however, that the sea letter in question was submitted to the examination of the American consul, Mr. Saabye, and that he gave a formal certificate that the paper was genuine; which certificate was submitted to the court by the claimant's

council. As to the certificates of the French consul, the American captains must receive them as the consuls may please to give them, with whatever errors or absurdities they may contain. But it is worthy of particular observation that the objection made in this case to the French consul's certificate originated in the tribunal itself; the captor did not deem that certificate to be of any importance; no objection was taken to it in any of the prior proceedings; the counsel of the American captain, of course, had not any opportunity of defending his client on that head. We herein see an innovation on judicial proceedings, of a character entirely novel: the court placing itself in the situation of the accusing party, and condemning the property in litigation, on grounds not assumed by the captor. The only documents of real importance to be considered are, 1st. the register; is it or is it not a genuine document, proving the vessel to be the property of the persons therein named? 2d. the clearance; did the vessel or did it not come from New Orleans, as the captain pretends? 3d. the bills of lading and invoice; do they or do they not describe the cargo actually on board? These points satisfactorily established, what else can be wanting where the intention is to do justice to the captured and to respect the neutral rights of the country to which he belongs? I can assure your excellency, in fine, that of all the decisions which have taken place since my arrival here, the one now in question is the most extraordinary; if, amongst all the just cases in which I have interfered, there was one which appeared to me to stand most clear from difficulties of all kinds, it was this of the Brutus, and I was still more gratified, in the confidence which I have indulged that the vessel would be acquitted; because it is the last remaining on the list of the captures which have occurred since my arrival here. What may be the merits of the captors, in the view of the king, I will not pre-

sume to conjecture; but I am sure that they cannot have any which can interfere with a due application of his majesty's just principles, or any, in relation to this case, which are not founded on misrepresentation. I must, therefore, earnestly request that your excellency will lay this representation before him, and I do confide that, when his majesty sees what I have stated, and is pleased to consider the inclosed sentence of his tribunal, he will think proper to reverse it, and to order the restitution of the property thus condemned.

I have the honor, &c.

(Signed) GEORGE W. ERVING.

His excellency Mr. De Rosenkrantz,
First Minister of State, &c. &c.

No. 8. B.

[Translation from the Danish.]

Copy of the sentence pronounced by the High Court of Admiralty in the case No. $164\frac{139}{1811}$.

Captain John Fenno,
against
J. T. Samuelsen, and other privateer captains.

As captain Fenno's conduct during the detention, in endeavoring to escape the privateers, must render him suspicious, and therefore authorize the capture, so his later conduct affords a grounded reason for calling his neutrality into question.

Besides, in the very documents by which captain Fenno wants to prove the nationality of the vessel and the legality of the voyage, there are found such deficiencies, that the precepts contained in the prize act in this respect cannot be looked upon as being accomplished.

1. The sea-letter is not in the usual order; as partly it is not filled out, and partly an elucidation is wanting in several places respecting the domicil and burthen of the vessel. The only place where the burthen is mentioned is perceptibly added by the strange hand. Thus the sea-letter can only be considered as a blank, arranged per males artes for the use of this vessel

2. The attest found on the certificate of the cargo under the name of the French consul, must be false. Though the French consuls might still, in the year 1811, have made use of the insignia of the French republic, still it can no wise be admitted that words without meaning should have been inserted in their seals, which words are even put in a reversed manner. Thus this seal must be counterfeited, by which no caution nor accuracy has been observed in order to imitate the true one. But if the seal be considered as false, it also follows from thence, that the same must hold good with respect to the attest, the genuineness of which the seal is to confirm, and from this it further results, in pursuance of the prize act, and his majesty's resolution communicated under the 23d October, 1810, to this high court, that such a false attest vitiates the authenticity of all the other documents even if they are in apparent order:

DECREED,

The ship Brutus, John Fenno, master, together with her cargo, litigated in this case, are hereby adjuged to Jens Tobias Samuelsen, and other privateer

captains, as a good prize. The court charges of the prize court shall be paid out of the ship and cargo. For the rest the costs of the process are annulled.

The high court of Admiralty, in Copenhagen, the 7th April, 1812.

(Signed) WLEUGEL.

I certify the correctness of the copy.

(Signed) N. TERBOL.

I certify that I have truly and faithfully translated the above from the Danish.

Witness my hand and seal of office,
Copenhagen, the 8th of April, 1812.

(Seal.) N. HENRIQUES,
Translator royal.

No. 17.

Mr. Erving to Mr. Monroe, Secretary of State.

COPENHAGEN, April 12, 1812.

SIR,

WITH my despatch No. 10, was submitted to you copy of the reclamation, dated November 4, which I thought it my duty to make against the sentences of condemnation, passed by the Danish tribunals in the years 1809 and 1810 on American ships and cargoes. Mr. de Rosenkrantz was prevented at first by ill health, and afterwards for a long time by a pressure of various business (as I understood) from laying it before the king. In the mean time he continually discouraged any expectation that his majesty would accede to the propositions which it contains, persisting in his declaration to me on my first arrival here, that there was no remedy for the past. Finding that in the usual course of business it was necessary for the minister to inform himself fully and particularly as to the contents of the note, so as to submit it to the king by abstract only, I thought that I might at once expedite my object, and add to the probability of success in it, by having the note translated into the Danish language. I sent such a translation to the minister on the 22d January, requesting (by No. 1 of the inclosures) that the whole might be laid before the king: This was done on the 14th of February, and on the same day the minister addressed to me the note No. 2, relating to Danish claims on our government, to which I answered on the 17th February as by No. 3, and on the 9th instant I finally received the minister's reply to my reclamation of November 4, (No. 4 of the inclosures.)

All my former communications, sir, have prepared you for this result, and the most extraordinary delay of the king in announcing it, though so far creditable to him in as much as it denotes the reluctance with

which he has come to a conclusion, which he cannot conscientiously approve of, and which he has not found any admissible pleas to support or to countenance, yet has also afforded me the means of ascertaining that no favorable change of this determination is to be hoped for.

All the business which my appointment had in view being now completed, and as there is not, as far as I know, one American vessel actually under detention (by Danish capture) in any port of this kingdom, after answering the minister of states' note in suitable terms, I propose, pursuant to my instructions, to take leave and depart for Paris. I wrote yesterday to Mr. Barlow for passports, and as soon as they arrive, which may be about the commencement of next month, I shall be entirely ready to make use of them. In the mean time I send home with this and other despatches my secretary Mr. Lewis, whose fidelity, industry, and zeal in the public service, I so entirely approve of, that I cannot but recommend him to your patronage and protection. Previous to my departure. I propose, as I have before mentioned to you, to present Mr. Forbes in the quality of "Agent" to the minister of state and to the other departments of government here, and I doubt not but that if any of our vessels should hereafter be captured by Danish cruizers, he will be able to afford them every assistance of which their cases may be susceptible, and that his repectability of character and his other qualifications will procure due attention to his official representations. I hope also that on my return to Paris, I may be able to assist Mr. Barlow in obtaining a favorable adjustment of the questions which have arisen out of the French captures in this quarter.

It seems to be scarcely probable, even if we should not be at war with England, that any of our vessels which may have left the United States for Russia, will, if they touch at Gottenburg for information, proceed on their voyages; for either the emperor of

France will occupy the Russian ports, or the emperor of Russia will submit to his terms: in either of which cases those ports will be rigorously closed against "colonial produce." If the emperor of Russia should successfully resist, then his country will be inundated with whatever we can supply by the commerce of England. In this last case it is not to be supposed that the English will take any neutral vessels under their convoy: in the two former cases the neutral will not have any motive for joining convoy On the other hand the French cruizers will certainly intercept every vessel not under convoy which may enter the Baltic with colonial produce: and it is equally certain that such cruizers will be sufficiently numerous; for independent of the privateers, properly French, the Danes have found so little encouragement for privateering during the last twelve months, that many of them are reduced to the necessity of seeking French commissions.

Mr. Lewis will carry with him the original of my despatch, No. 10, which incloses authentic copies of the sentences therein referred. In these, sir, you will notice more particularly the extraordinary principles and offensive doctrines on which the tribunals have founded their decisions, and in case our country should still continue in peace, government, having the whole matter before it, will be able to give our commerce such direction, and to place it under such regulations as may best comport with its future security.

With the most perfect respect,
And consideration,
Sir,
Your verry obedient servant,

(Signed) GEO. W. ERVING.

James Monroe, esq.
Secretary of State.

No. 1.

Mr. Erving to Mr. de Rosenkrantz.

COPENHAGEN, January 22, 1812.

SIR,

I have the honor herewith to inclose a translation into the Danish language, of my note to your excellency of November 4th, and of the statement thereto annexed. These I have caused to be prepared with particular care, trusting that you will be pleased to lay them, in their entire form, before his majesty.

I cannot but take this occasion of renewing to your excellency the expression of my earnest desire that you would enable me to transmit to my government his majesty's resolutions on the subject, nor, of my anxiety that those resolutions, marked by the enlightened and friendly policy which I have anticipated in my reports to my government, may correspond to the just expectations of the United States, and cement that harmony and good understanding between the two countries which ought always to subsist.

I have the honor, &c.

(Signed) GEORGE W. ERVING.

To his excellency, Mr. de Rosenkrantz,
First Minister of State, &c.

No. 2.

[TRANSLATION.]

The Danish brig Henrick, captain Scheel, departed for cape Francois in 1799, was captured in the month of October of the said year by a French privateer, and recaptured a few days after by the Uni-

ted States ship Pickering, which took her into the Island of St. Christopher's where she was condemned on the ground of being recaptured, whereby the owner only obtained about one eighth part of the value of the vessel and cargo.

The American government ought to be held responsible for this measure, having by their instructions of the 12th March 1799, authorized her armed vessels to re-capture all prizes taken by French privateers The sentence of condemnation pronounced, appears also to contain an indmissible application of the American laws, which do not relate to the recapture of *neutral* vessels. The two accompanying printed documents prove, that Mr. Madison, then Secretary of State, of the United States, recognised the validity of the claim, and recommended the interests of the claimant to congress. The owner, however, having been frustrated in his attempt to obtain the compensation due to him, has been obliged to institute a suit against the officers who recaptured his vessel of which he is still waiting the issue.

A similar claim was preferred by the owner of the ship *Mercator*, captured in 1800, by lieutenant Maley, commander of the United States vessel, *Experiment*, afterwards taken by a British cruizer, which carried her to Jamaica, where she was declared a good prize.

It is shewn by the annexed printed report, that damage to the amount of 33,864 dollars has been awarded to the owner in this case, but he has not yet been able to obtain payment.

In presenting these claims to the notice of Mr. Erving, the special minister of the United States of America, the undersigned minister of state, and chief of the department of foreign affairs, flatters himself, that he will lay them before his government, and endeavor to obtain for the parties interested, that indemnity, which the justice of their claims so evidently calls for; but which the intervention of his majesty's

charge des affairs, has not, to the present period, been able to accomplish.

The undersigned, in praying Mr. Erving to have the goodness to return to him the enclosures, avails himself of the opportunity of renewing the continued assurance of his high consideration.

(Signed) N. ROSENKRANZ.

Copenhagen, February 14th, 1812.

No. 3.

Mr. Erving to Mr. de Rosenkrantz.

COPENHAGEN, February 17th, 1812.

SIR,

I have received your excellency's note of the 14th inst. relating to two claims of Danish subjects on the government of the United States. I am uninstructed as to those claims otherwise than by that note and by the documents which it inclosed. In these I perceive with great satisfaction, that during a war of two years between the United States and France, at a time when the Danish commerce was in activity, and the western ocean was covered with American cruizers, the causes of complaint afforded to this country were confined to these cases, one of them a mere question as to the amount of salvage exacted on a recapture, and both of them grounded on the errors or misintelligence of officers employed on foreign stations; that these reclamations do not involve any misconduct of American tribunals, any violation of public law, any offence of neutral rights, or any bad faith or unfriendly disposition in the government of the United States; but on the contrary that in every stage of the claims, a love of justice, a

respect for neutral rights, and a frank, generous and friendly character towards Denmark, has been continually manifested by that government; and finally, that complete satisfaction to the claimants has hitherto been delayed by causes, which, though beyond the controul of the executive, do not forbid the expectation of redress.

I shall have the honor to submit to my government a copy of your excellency's note, adding whatever may be proper on my part to promote the object of it.

I renew, &c.

(Signed) GEORGE W. ERVING.

To his excellency M. de Rosenkrantz,
First Minister of State, &c.

I return herewith the printed papers which were inclosed in your excellency's note.

Note, No. 4.

[TRANSLATION.]

COPENHAGEN, April 9th, 1812.

The undersigned, minister of state of the department of foreign affairs, having laid before his majesty the note which Mr. Erving, the special minister of the United States of America, addressed to him the 4th of November last year, the principal object of which was to claim the revision of several sentences definitively pronounced by the supreme tribunals of admiralty, which the special minister considers ill founded, and in opposition to the principles he maintains ought to serve as a basis to the proceedings on prizes and rules for the judges, authorized to pronounce between the captors commissioned by the Danish government, and the captains and owners of whose vessels have been captured under the flag of the

United States, is authorized by the orders of his majesty, to make known to Mr. Erving, special minister of the United States, that the king's very particular sentiments of friendship for the United States, and his esteem for the president cannot influence him to permit a revision of the sentences pronounced, terminating the causes arising from captures made by the cruizers under the flag of the state.

The principles which have formed the basis of the privateer regulations, and which have not been lost sight of in giving the instructions to the tribunals charged to examine in matter of prizes, are the same as those generally received, and according to which the Danish tribunals of the admiralty judge, and decide on the captures of vessels under other flags than that of the United States.

The special minister will be pleased to find in this assertion, which is founded on the facts he may have made himself acquainted with since his residence here, that the American flag has on all occasions been treated in the maritime tribunals, conformably to the rules established, precisely in the same manner as the neutral flags of Europe.

The undersigned is moreover authorized to observe to Mr. Erving, special minister of the United States, that if permission were given to the captured, who have pleaded before the tribunals which have decided by a definitive sentence between the parties, to make in their favor revision of the causes terminated, the same indulgence should be given to the captors, who might complain of the sentences pronounced against them, and that in this manner the causes arising from prizes would experience indefinite delays, as prejudicial to the captured as to the captors.

The undersigned in expressing to Mr. Erving his regret at not being able to grant what the special minister proposed to him, has the honor to renew to him the assurance of his high consideration.

(Signed) ROSENKRANTZ.

No. 19.

Mr. Erving to Mr. Monroe, Secretary of State.

COPENHAGEN, 17th April, 1812.

SIR,

I HAVE the honor herewith to inclose the reply of Mr. de Rosenkrantz to the last reclamation which I presented to him in the case of the "Brutus," copy of which was transmitted with my despatch No. 16.

With the most perfect respect and consideration,

Sir,

Your very obedient servant,

(Signed) GEORGE W. ERVING.

COPENHAGEN, 16th April, 1812.

[TRANSLATION.]

The undersigned minister of state, and chief of the department of foreign affairs, has not failed to attend to the reclamations which Mr. Erving, the special minister of the United States of America, made to him under date of the 23d September, 23d November and 13th December of the last year in favor of the different American vessels, and specially in that of the Brutus, Fenno, master, captured and brought into a port of Norway.

It is known to Mr. Erving, that the causes of the vessels mentioned in the list of the 13th December, have all been decided in favor of the captured, with the exception of the Maryland, now waiting a decision, and of the Brutus, which, as well as the others have been reported to the king.

It is with regret that the undersigned is obliged to inform the special minister, that his majesty, after hav-

ing examined into this affair, has thought proper to leave to the supreme tribunal of the admiralty the pronouncing of the sentence, conformably to the principles and instructions prescribed to this tribunal by the regulations concerning privateers, and the ordinances regulating the proceedings before the supreme tribunal, and that this tribunal considers itself authorized to condemn both vessel and cargo for the reasons expressed in the sentence.

The decision of the king having been acted upon before the note of Mr. Erving, under date of the 10th instant, reached the undersigned, as the special minister will see by the date of the annexed copy of sentence, he has not been able to make use of the reiterated reclamations of Mr. Erving.

The undersigned flatters himself to be able shortly to inform the special minister, that the cause of the ship Maryland has been decided favorably.

He has the honor to renew to him the assurance of his high consideration.

(Signed) ROSENKRANTZ.

No. 20.

Mr. Erving to Mr. Monroe, Secretary of State.

COPENHAGEN, April 18, 1812.

SIR,

I have the honor herewith to inclose copy of what I propose to send to Mr. de Rosenkrantz, in reply to his note of the 9th instant.

With the most perfect respect,
And consideration,
Sir,
Your very obedient servant,

(Signed) GEO. W. ERVING.

P. S. I shall leave with Mr. Forbes the *documents* belonging to the claims here, and the claimants' letters; but I think it most proper upon the whole to transmit to you the original notes of Mr. de Rosenkrantz and they are therefore herewith inclosed.

G. W. E.

Mr. Erving to Mr. de Rosenkrantz.

COPENHAGEN, April 18th, 1812.

The undersigned, special minister of the United States of America, has had the honor to receive the note which his excellency Mr. de Rosenkrantz, first minister of state, and chief of the department for foreign affairs, addressed to him on the 9th instant, by order of his sovereign, in reply to the reclamation made by the undersigned, on the 4th November, 1811, against certain sentences of Danish tribunals, passed in preceding years, on vessels and cargoes the property of American citizens.

It appears that his majesty has not thought proper to authorize the minister of state to enter into discussion with the undersigned upon any of the various subjects which that reclamation embraces; to contest or to acquiesce in any of the doctrines upon which it is basis'd; to offer any kind of satisfaction for any of the various injuries which it complains of, or to propose any correction of the abuses and malversations which it points out as the sources of those injuries.

It is, therefore, the duty of the undersigned formally to declare, that the government of the United States cannot rest satisfied with such a mode of treating rights which it holds sacred, and will never sacrifice, and with such a rejection of the just claims of its injured citizens which it will never cease to assert and to protect.

The president will certainly receive with satisfaction the sentiments of particular friendship towards the United States, and of esteem for himself, which his Danish majesty has been pleased to profess; sentiments which he will readily reciprocate. Such sentiments he was eager and sincere in advancing; but he will, at the same time, receive with surprise as well as with peculiar concern, the declaration with which these professions are accompanied, refusing a reparation for the wrongs which he has complained of; wrongs which, unredressed, cannot but be considered as being but little in accord with such sentiments.

These, his impressions, must be rendered still more forcible by the recollection that a suitable redress for similar wrongs has never been altogether withheld by any of the belligerent powers with which the United States have occasionally found themselves in collision; but, on the contrary, that each of the chief belligerents has, heretofore, furnished a signal example wherein the firm and temperate voice of justice has prevailed over an erroneous policy; each has attended to, and respected, the remonstrances of the United States, satisfied their demands, and amply compensated the losses which the temporary adoption of false principles, or the misconstruction or malapplication of acknowledged principles, had brought upon their citizens; thus recognizing the sovereignty of just laws and the indefectibility of the neutral rights which spring from them: nor can the president be now reconciled to any infringement of these, to the cruizing regulations of Denmark in those points which may offend them, or to the decisions of any tribunals, in as far as they may have the same tendency, by the only apology which his majesty has authorized the minister of state to offer for the wrongs complained of, viz. that these regulations and these decisions are founded upon the same principles which direct the conduct of Denmark towards neutral European powers, and that in cases wherein those powers have been

thereby affected, no revision or retrospect has taken place: for, without entering into the inquiry whether there does or does not exist an European power neutral with regard to Denmark, and with which she can possibly come into collision on such subjects, without pointing out the difference between the neutral position of the United States and that of any European power, or examining in any degree the conduct of Denmark towards the European powers, neutral or otherwise, it is sufficient to observe that the United States have not made common cause with any other neutral power; they have not bound up their fate with, nor do they mean to submit their rights to the arbitration of, or to pare them down so as to suit the convenience of any power whatever: these rights are clear, pronounced, and unequivocal: they are found in the great code of public law. If other powers have not the same interest in defending; if they find it convenient to relinquish, or, for any other reasons whatever cease to assert such rights, no obligation to abandon them is thereby imposed on America; but to the contrary, standing alone amidst the great struggle of nations, her obligation to protect that sacred deposit is strengthened, and she becomes doubly responsible to posterity for this great inheritance; since she is not deficient in the power and means of preserving it.

His excellency, the minister of state, seems to suppose that the principal object of the undersigned is to obtain the "*revision*" of the sentences of the tribunal specified in his note of November 4th. It is proper, therefore, to consider this part of the subject, though he must premise by observing, and he begs his excellency to understand, that the object of that note which embraced various subjects of complaint, was to obtain satisfaction and compensation, leaving the "mode" and the "means" to be adjusted by mutual accord; for, he is entirely unwilling to rest the claims of the United States, or to make them in any

wise dependent on an abstract discussion as to the course which may be taken to produce the satisfaction required.

The undersigned, in his note of November 4th, has shewn, as he trusts, most clearly and indisputably, that the rights of the United States, as a neutral nation, have been violated by the decisions therein referred to; if not, he has invited the minister of state to discuss the principles on which his reclamation is founded. Can it be deemed to be a satisfactory answer to such a reclamation that other nations have submitted to similar decisions? Can it be imagined that the term "definitive," as applied to such decisions, is conclusive against the U. States? Can it be expected that they will acquiesce in a decision as *just*, because it is termed "definitive?" The constitution, the faculties, and the police of admiralty tribunals in this as in every other country are formed by and depend on the will of the sovereign, and he is strictly responsible to foreign nations, in all cases affecting their rights, for a correct administration of justice on the principles of public law which forms the basis of those rights. No foreign nation submits its cause to the arbitrary or capricious decision of such tribunals, or respects their decisions in any degree further than as these may be found to conform to its own sense of its own rights. The tribunal is the mere instrument of the sovereign with which he operates, and it is his duty so to direct and use it, that it may not do injury to the rights of others. The foreign nation, therefore, looks with reason to the tribunal only as indicative of the temper of the sovereign by whom it is appointed and under whose authority it acts, and not as to the arbitrator of its own destiny. When a foreign government complains of the conduct of such tribunals, it calls upon the good faith of the sovereign to repair the wrong which he ought to have restrained. Shall it be competent to the sovereign to refer the offended party for satisfaction to the very cause of complaint?

What is this but to adopt the injustice complained of? Since when has it been agreed that the belligerents shall give law to neutral nations? Does the "ancient faith" which in peace augmenting confidence removed the probabilities of war, and in war mitigated its horrors, does it no longer subsist? Or in a merely political calculation does it not occur that the belligerent may hereafter become neutral? However these questions may be answered it is certain that there is a self-conserving principle in truth and right which ensures their vindication, so that a nation may be said to be deceiving itself when it refuses what is due to the just demands of others.

His excellency the minister of state, has been instructed to observe that if his majesty could consent to a revision of the sentences of his tribunals in favor of those whose property has been condemned, he ought to extend such revision to the sentences by which captured property has been acquitted.

The undersigned takes the liberty of remarking that the reclamation which he has made, is the reclamation of the American government against certain sentences of condemnation passed on American property by tribunals appointed by his Danish majesty, and acting under his authority. The American government finds itself aggrieved by such decisions. Is his majesty dissatisfied with the decisions of a contrary character by which American property has been acquitted? certainly not: Yet only upon that ground could his majesty desire a revision of the sentences of acquittal: for no question now exists between the captor and the captured: the question is between government and government: nor is it readily to be conceived that tribunals whose decisions the government of the United States has found such ample and solid reasons to complain of, can in other cases have done injustice to his majesty's subjects. It is because the tribunals have been partial to his majesty's subjects, because they are not courts of arbitration in which the United

States has its equal representation, and hence have acted on principles the justice of which the United States does not acknowledge, that a revision of their sentences against the property of American citizens may be reasonably proposed by the American government, and may be acceded to by his majesty, without this plan contemplating any injury to his subjects. These are the grounds on which similar revisions have been demanded in other countries, and have been granted, and compensation obtained without its ever having been proposed that sentences of acquittal, which have only tended to diminish the amount of the injuries complained of, should be also revised.

The undersigned cannot therefore but hope that his Danish majesty on a reconsideration of this important subject, will see fit to adopt some plan with respect to the matters complained of, which may satisfy the just expectations of the U. States. He has thought that it best comported with the friendly and conciliatory dispositions of his government, not to propose any which should interfere with such arrangements as having due regard to the object it might be most convenient to his majesty to make, and therefore in his note of November 4th, stated, what he will here repeat.... "that the mode, the means, and to a certain extent even the time may be subjected to considerations of mutual convenience and accord." He requests that the minister of state will be pleased to lay this note entire before his majesty.

He renews to his excellency, the minister of state, assurances of his distinguished consideration.

(Signed) GEORGE W. ERVING.

His excellency Mr. de Rosenkrantz,
first Minister of State, and chief of the
department of foreign affairs, &c.

No. 21.

Mr. Erving to Mr. Monroe, Secretary of State.

COPENHAGEN, April 20th, 1812.

SIR,

With my despatch No. 8, (of September 8) I had the honor to submit to you copies of my correspondence with Mr. Desaugiers, then charge de affaires of France, which I had previously laid before the minister of state here, and which was also transmitted by Mr. Desaugiers to his government. In my notes to Mr. Desaugiers were particularized the various excesses of the French corsairs in these waters, which appeared to me contrary to the spirit and intention of that government, as well as injurious to our commerce. It is with great satisfaction that I now transmit to you the new instructions which Mr. Desaugiers has been ordered to give to the captains of the corsairs.

With the most perfect respect and consideration,

Sir,

Your very obedient servant,

(Signed) GEORGE W. ERVING.

No. 22.

Extract of a letter from Mr. Erving to Mr. Monroe, Secretary of State.

COPENHAGEN, May 9, 1812.

"I have the honor herewith to transmit to you duplicate of my letter No. 20, (by Mr. Lewis) dated April 18th. The note of the same date to which it refers, with the few alterations which will be found in this duplicate, was sent to Mr. de Rosenkrantz on the

21st, and was laid by him before the king on the 1st instant. In the meantime I had several conversations with that minister upon the subject of it, in which I did not fail to urge whatever might contribute to a favorable answer on the part of his majesty. Finally, on the 8th instant, (yesterday) he sent to me the note of which the inclosed is a copy. You will observe, sir, the new position which our claims assume under this communication, and the reasonable expectation which it affords of a settlement hereafter. I have endeavored to have this point placed in a more formal and explicit shape."

[TRANSLATION.]

Mr. de Rosenkrantz to Mr. Erving.

The undersigned, minister of state and of foreign affairs, has had to explain to Mr. Erving, special minister of the United States of America, in his note of the 9th of last month, the motives which have influenced the king his master not to grant the revision of the sentences of his supreme tribunal of admiralty definitively, terminating the causes brought before this tribunal, arising from the captures made by Danish cruizers, of vessels sailing under the flag of the United States, and that for this reason he could not persuade himself that the ulterior representations which the special minister had thought proper still to address him could produce any change in the determination of his majesty. The minister of foreign relations has however prevailed on the king his master to be pleased to examine the note which Mr. Erving addressed to him under date of the 18th of last month, reiterating the claim to

redress for the wrongs previously recited, and satisfaction for which he considers it his duty still to insist upon.

The undersigned hastens to have the honor to inform the special minister that it has been enjoined on him by his sovereign to answer the above-mentioned note of the special minister by referring to the contents of his preceding note of the 9th, as to the friendly dispositions of his majesty towards the government of the United States, to add the expressions of his extreme regret that he cannot agree to the opinion expressed by Mr. Erving as being that of his government, in regard to the conduct observed towards vessels under American flags, brought into the ports of his dominion by his armed vessels or by those provided with letters of marque.

The war in which the Danish nation is engaged with Great Britain, who employs every means to conceal from observation the enterprises of its merchants, in making use of foreign flags; and merchants have caused those measures, the object of which is to preclude English commerce from the advantage growing out of the disposition it has always found in the merchants of other nations, to become the agents of prohibited trade; it is too well known to Mr. Erving, and it ought to be to his government, that American merchants and mariners have frequently lent themselves to enterprises of this nature, for the Danish government to consider it necessary to multiply the proofs which it has on this subject.

It is known to the Danish government that the United States do not pretend either to approve or defend the conduct of American citizens, who, from the thirst of gain, are engaged in enterprises which expose them to loss, if the fraud is discovered: proofs are not wanting to shew that they have frequently succeeded in imposing both on the officers

empowered to examine captured vessels, and on the tribunals of prizes. The subterfuges to which they resort to prevent the discovery of the enemy character of the expedition have necessarily induced those intrusted by the king with the examination, as well as the tribunal, to redouble their activity, in order to fulfil the views of his majesty; but it never has been conformable with these to suffer that any injury should be sustained by the mariners and merchants of friendly nations who carry on a licit and unsuspicious commerce.

The persevering struggle of the Danish government in favor of the principles upon which repose the liberty of the commerce and navigation of neutral nations, forbids the supposition that it would wish to derogate from them; but it has a complete right to tear the mask from the commerce of its enemy who recognises no law in regard to navigation, as soon as neutral powers are in question. The king will not renounce the exercise of this right. If his majesty could be persuaded that in particular cases it should happen that appearances might have prevailed in the examination of some causes to the detriment of some American citizens, who might not have been able to demonstrate sufficiently that their enterprises of commerce were legitimate, he would assuredly be led to redress just complaints, as he has on several particular occasions given proofs of of his favorable dispositions towards the American vessels which circumstances have conducted to the ports of his kingdom.

The king wishes, therefore, to give, himself, proofs to the government of the United States of the sentiments of justice with which he is animated.

The undersigned flatters himself that the president of the United States will be easily persuaded that during so hard a contest as that which Denmark now sustains against the government who so evi-

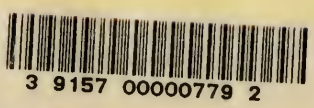
dently disavows the rights of nations engaged in navigation, the moment is not favorable to bring anew under consideration the reclamations which the government of the United States may find it convenient to make at that period in relation to the objects in discussion.

The undersigned has the honor to renew to the special minister the assurance of his high consideration.

(Signed)

ROSENKRANTZ.

Copenhagen, May 8, 1812.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